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Report of the Committee on the Rights of Persons with Disabilities

Fifth session
(11–15 April 2011)

Sixth session
(19–23 September 2011)

Seventh session
(16–20 April 2012)

Eighth session
(17–28 September 2012)

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Note

Symbols of United Nations documents are composed of letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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Chapter I
Additional meeting time granted by the General Assembly

A. Rationale

1. On 24 December, 2011, the General Assembly adopted resolution A/66/229, by which it decided "to authorize for the Committee an additional week of meeting time per year to be used consecutive to an existing regular session, bearing in mind the requirements of the Committee for reasonable accommodation, and without prejudice to the ongoing process of reform aimed at strengthening the treaty body system". The General Assembly also invited the Chair of the Committee to present an oral report on the work of the Committee and to engage in an interactive dialogue with the General Assembly at its sixty-seventh and sixty-eighth sessions.

2. At its seventh session, held in April 2012, the Committee decided to request the General Assembly to provide appropriate financial support to expand its meeting time.

3. The decision to request additional meeting time was taken due to the current insufficient meeting time for the Committee to undertake its mandated functions considering that:

(a) At its current pace of work, the Committee is facing a backlog of pending reports that amounts to an eight-year delay between their receipt and examination;

(b) As a result the high level of ratifications of the Convention on the Rights of Persons with Disabilities, by the end of 2013, 69 reports will have fallen due and, by end of 2014, 84 reports will be due, which translates into several decades of delays in the examination of reports following submission, unless the Committee's pace of work can be accelerated.

4. At its eighth session, held in September 2012, the Committee reiterated its decision to request the General Assembly sufficient meeting time to perform its duties under the Covenant and its Optional Protocol to the Convention on the Rights of Persons with Disabilities.

5. In October 2012, the Chair of the Committee addressed the Third Committee of the General Assembly and provided information on the work accomplished by the Committee, the challenges ahead, including the increasing backlog of reports pending to be considered, and requested the General Assembly to allocate sufficient meeting time to the Committee to perform its mandate.

6. On 19 November 2012, the Third Committee of the General Assembly decided "to authorize for the Committee, without prejudice to the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system, two annual pre-sessional working group meetings of one week each, starting in 2014, with the participation of up to six members of the Committee, to be held after each of the two annual sessions of the Committee, in order to ensure the most efficient and effective use of its annual session time by allowing time for the consideration of additional reports". It also decided "to authorize for the Committee, without prejudice to the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system, the addition of two weeks of meeting time per year to the existing regular sessions, starting in 2014" (A/C.3/67/L.25).

7. A programme budget implication was prepared (A/C.3/67/L.30) for the biennium 2014–2015. The Third Committee was informed by the Secretariat that as all requested

activities should be implemented beginning in 2014, no additional resources were required for the biennium 2012–2013.

B. Decision

8. On 20 December, 2012, the General Assembly adopted resolution A/RES/67/160, by which it authorized the holding of two annual pre-sessional working group meetings of one week each and the holding of two additional weeks of meeting time per year to be used consecutive to an existing regular session, starting in 2014.

Chapter II
Organizational and other matters

A. States parties to the Convention

9. As at 28 September 2012, the closing date of the eighth session of the Committee on the Rights of Persons with Disabilities, there were 124 States parties to the Convention on the Rights of Persons with Disabilities and 72 States parties to its Optional Protocol. The Convention and its Optional Protocol were adopted by the General Assembly in its resolution 61/106 of 13 December 2006 and opened for signature, ratification and accession on 30 March 2007. In accordance with article 45, paragraph 1, the Convention entered into force on 3 May 2008. In accordance with its article 13, the Optional Protocol also entered into force on 3 May 2008 at the same time as the Convention, and in accordance with article 13, paragraph 1 of the Optional Protocol.

10. A list of States parties to the Convention and a list of States parties to the Optional Protocol are contained in document CRPD/C/8/2.

B. Meetings and sessions

11. The Committee held its fifth session at the United Nations Office at Geneva from 11 to 15 April 2011. The Committee held 10 plenary meetings (CRPD/C/5/SR.1 and Add.2 and Add.4, and CRPD/C/5/SR.4-5 and 10). The provisional agenda was adopted by the Committee as well as the report on its fourth session (CRPD/C/4/3). The fifth session was opened by a representative of the Secretary-General.

12. The Committee held its sixth session at the United Nations Office at Geneva from 19 to 23 September 2011. The Committee held 10 plenary meetings (CRPD/C/6/SR.1, 3, 4 and 10). The provisional agenda was adopted by the Committee as well as the report on its fifth session (CRPD/C/5/5). The sixth session was opened by a representative of the Secretary-General.

13. The Committee held its seventh session at the United Nations Office at Geneva from 16 to 20 April 2012. The Committee held 10 plenary meetings (CRPD/C/7/1). The provisional agenda was adopted by the Committee as well as the report on its sixth session (CRPD/C/6/2). The seventh session was opened by the Deputy High Commissioner for Human Rights.

14. The Committee held its eighth session at the United Nations Office at Geneva from 17 to 28 September 2012. The Committee held 20 plenary meetings (CRPD/C/8/1). The provisional agenda was adopted by the Committee as well as the report on its seventh

session (CRPD/C/7/2). The eighth session was opened by a representative of the Secretary-General.

C. Membership and attendance

15. The Committee on the Rights of Persons with Disabilities was established in accordance with article 34, paragraph 1, of the Convention, with the first 12 members of the Committee being elected by the Conference of States Parties on 3 November 2008. Elections took place on 3 September 2010 to fill the six seats on the Committee for which members' terms were expiring on 31 December 2010, as well as six additional seats established under article 34, paragraph 2, of the Convention, when the number of States parties to the Convention reached 80.

16. A list of members of the Committee, indicating the duration of their terms of office, is contained in annex I to the present report. All members attended the fifth, sixth, seventh and eighth sessions of the Committee.

D. Solemn declaration by members of the Committee

17. At the opening of the fifth session, on 11 April 2011, the eight newly elected members of the Committee made the solemn declaration provided for under rule 14 of the provisional rules of procedure of the Committee.

E. Election of officers

18. At its fifth session, the Committee considered the rules of procedure regarding the election of officers and composition of the Bureau (rules 15–20) and thereafter proceeded to elect its officers.

19. The following members were elected for a term of two years, in accordance with rules 15, 16 and 17 of the Committee's rules of procedure:

Chairperson:	Ronald McCallum (Australia)
Vice-Chairperson:	María Soledad Cisternas Reyes (Chile)
Vice-Chairperson:	Edah Wangechi Maina (Kenya)
Vice-Chairperson:	Jia Yang (China)
Rapporteur:	Theresia Degener (Germany)

F. Future meetings of the Committee

20. At its fifth session, in accordance with the calendar of conferences adopted by the General Assembly, the Committee confirmed the date of its sixth session from 19 to 23 September 2011, in Geneva.

21. At its sixth session, in accordance with the calendar of conferences adopted by the General Assembly, the Committee confirmed the date of its seventh session, from 16 to 20 April 2012 in Geneva.

22. At its seventh session, in accordance with the calendar of conferences adopted by the General Assembly, the Committee confirmed the dates of its eighth session, from 17 to 28 September 2012, in Geneva.

23. At its eighth session, in accordance with the calendar of conferences adopted by the General Assembly, the Committee confirmed the dates of its ninth session, from 15 to 19 April 2013, in Geneva.

G. Other decisions of the Committee

24. At its fifth session, the Committee took a number of other decisions (see document CRPD/C/5/5). The Committee adopted, and included in its first biennial report to the General Assembly and the Economic and Social Council, a request for additional meeting time.

25. The Committee reviewed its first biennial report, which had been adopted by the Economic and Social Council at its 2011 substantive session and submitted by the Council to the General Assembly for adoption (A/66/55) at its sixty-sixth session.

26. A number of other decisions were taken by the Committee at its sixth session (see document CRPD/C/6/2).

27. At its seventh session, the Committee took a number of other decisions (see document CRPD/C/7/2). The Committee also decided to endorse the outcome document of the Dublin II meeting on the strengthening of the treaty body system.

28. At its eighth session, the Committee took several other decisions. The Committee also decided to adopt the Addis Ababa guidelines on the independence and impartiality of members and to include them as an integral part of its rules of procedure, and to hold a meeting with State parties during its tenth session in September 2013 (see document CRPD/C/8/2).

H. Statements of the Committee

29. At its eighth session, the Committee adopted a statement expressing support to several proposals contained in the High Commissioner's report on the strengthening the United Nations treaty body system (see document CRPD/C/8/2).

30. The Committee also adopted a statement on the half day of general discussion on women and girls with disabilities to be held at its ninth session (see document CRPD/C/8/2).

I. Elaboration of general comments

31. The Working Group on a general comment on legal capacity (art. 12) considered a draft concept paper prepared by the Chairperson, Gabor Gombos, and agreement was found on eight points of consensus, in particular to hold consultations with States parties and other actors about their practices.

32. The Committee appointed Edah Maina as interim Chairperson of the Working Group for the period between January and April 2013.

33. The Committee established, at its fifth session, a working group on article 9 to formulate a general comment on accessibility. The Working Group on a general comment on accessibility made a call for submissions in preparation of a draft general comment and welcomed the submissions made by several stakeholders at its seventh session. It reported back to the Committee at its eighth session on the progress made and challenges encountered in discharging of its mandate.

J. International Day of Persons with Disabilities

34. Committee members participated, in their personal capacity, in various activities and events celebrating the International Day of Persons with Disabilities on 3 December 2011 and 2012.

K. Accessibility of information

35. The Committee decided at its sixth session to support a proposal presented jointly by the University of Middlesex, Microsoft and Ability.Net to conduct an assessment on accessibility of the Committee's meetings during its seventh session, with a view to making concrete proposals.

(a) During the seventh session, members of the Working Group on accessibility to public transportation and airline policies met with representatives of the International Air Transport Association (IATA), a private organization of member airlines, to discuss the treatment of persons with disabilities by airlines.

(b) The Committee decided to request the Division of Conference Management of the United Nations at Geneva to make all possible efforts to ensure that International Sign interpretation and captioning are used in all public and private meetings of the Committee.

(c) At its eighth session the Committee was informed about the preliminary findings of the accessibility assessment carried out in April 2012. The Committee also endeavoured to continue responding to the invitation of the Human Rights Council Task Force on Secretariat services, accessibility and use of information technology and making recommendations and proposals on how to improve access by persons with disabilities to the work of the Council and to the Palais des Nations, as well as to information, communication and technology services at the United Nations Office at Geneva.

L. Adoption of the report

36. At its 102nd meeting, the Committee adopted its second biennial report to the General Assembly, covering its fifth, sixth, seventh and eighth sessions.

Chapter III
Methods of work

37. During its fifth session, the Committee reviewed and adopted the revised working methods of the Committee (see document CRPD/C/5/4).

Chapter IV
Consideration of reports submitted in accordance with article 35 of the Convention

38. During its fifth session, the Committee held its first constructive dialogue with a State Party on its report submitted under article 35 of the Convention. It considered the initial report of Tunisia.

39. During its sixth session, the Committee considered the initial report submitted by Spain, and at its seventh session the initial report of Peru.

40. At its eighth session, the Committee considered the initial reports of Argentina, China, and Hungary.

41. The Committee prepared concluding observations on each of the reports considered (see annex II).

Chapter V
Activities carried out under the Optional Protocol to the Convention on the Rights of Persons with Disabilities

A. Action taken by the Committee in respect of issues arising from article 1 of the Optional Protocol to the Convention

42. At its fifth session, the Committee was briefed by the Special Rapporteur on communications and the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the activities conducted under the Optional Protocol and the correspondence received by the Committee since the entry into force of Optional Protocol. The Committee also reviewed the fact sheet on the procedure for submitting communications under the Optional Protocol and guidelines for the submission of communications under the Optional Protocol. It decided to finalize the latter two documents during the intersessional period and to post them on the Committee's web page (see documents CRPD/C/5/2/Rev.1 and CRPD/C/5/3/Rev.1).

43. At its sixth session, the Special Rapporteur on communications briefed the Committee about the activities carried out under the Optional Protocol since the fifth session of the Committee, and provided an overview of the correspondence received by the Committee. The Committee approved the decisions taken by the Special Rapporteur with regard to the three registered communications, and extended her mandate to the end of 2012.

44. At its seventh session, the Committee considered its first individual communication under the Optional Protocol, communication No. 3/2011, *H.M. v. Sweden*. The Committee adopted by consensus its views thereon (CRPD/C/7/D/3/2011). The Committee requested follow-up information from the concerned State party on measures taken to implement the Committee's views.

45. At its eighth session, the Committee decided that communication 6/2011, *K.M. vs. United Kingdom*, was inadmissible (CRPD/C/8/D/6/2011). The Committee made a decision declaring admissible another communication submitted under the Optional Protocol.

46. The Committee decided to accept third party interventions under article 73, paragraph 2 of its rules of procedure, provided that there is consent of one of the parties to the communication.

47. The Committee also established a Working Group on communications and inquiries consisting of five members, with membership to be reviewed in April 2013.

B. Action taken by the Committee in respect of issues arising from article 6 of the Optional Protocol to the Convention

48. No request for an inquiry was received nor registered by the Secretariat.

Chapter VI
Cooperation with concerned bodies

A. Cooperation with other United Nations organs and departments

49. During its fifth, sixth, seventh and eighth meetings, the Committee met with representatives of the Department of Economic and Social Affairs, the World Health Organization, the International Labour Organization, OHCHR, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees and the World Intellectual Property Organization to discuss ways to cooperate, as provided for under article 38 of the Convention.

50. During its fifth session, the Committee was briefed by the Special Rapporteur on disabilities on his activities and mandate and discussed ways of strengthening cooperation with the Special Rapporteur. It was also briefed by a representative of the OHCHR Regional Office in Brussels on the implications of the European Union's ratification of the Convention in December 2010.

B. Meeting with other concerned bodies

51. During its fifth, sixth, seventh and eighth sessions, the Committee was addressed by representatives of the non-governmental organizations Human Rights Watch, Inclusion Japan, the International Disability Alliance, the International Disability and Development Consortium, the International Social Service and the World Federation of the Deaf.

52. During its sixth session, the Committee resumed its practice of having one and a half hours of dialogue with disabled peoples' organizations and non-governmental organizations during the official meeting. Several side events were organized by disabled peoples' organizations during lunch breaks.

53. During its eighth session, the Committee met with representatives of the Council of Europe to discuss ways to cooperate, as provided for under article 38 of the Convention.

Chapter VII
Conference of States Parties: fourth and fifth Conferences of States Parties

54. From 7 to 9 September 2011, several members of the Committee participated in the fourth Conference of States Parties in New York. The theme of the fourth session was Enabling Development, Realizing the Convention on the Rights of Persons with Disabilities. The Conference allowed two round-table discussions to be held, the first on "Realizing the Convention on the Rights of Persons with Disabilities through international cooperation", and the second on "Ensuring effective and full participation in political and public life". An interactive informal session with civil society on "Realizing the right to work and employment" was also organized.

55. Theresa Degener participated as a panellist in the second round table, while Stig Langvad, Ronald McCallum and Jia Yang participated in the informal session as speakers. In addition, Ronald McCallum intervened as Chair of the Committee during the interactive dialogue on the implementation of the Convention.

56. From 12 to 14 September 2012, the fifth Conference of States Parties was held in New York on the theme "Making the Convention on the Rights of Persons with Disabilities

count for Women and Children". Two roundtables and one interactive informal session with civil society were held, respectively entitled "Accessibility and technology", "Children with disabilities" and "Women with disabilities". Carlos Rios Espinosa participated as a speaker to the informal session.

57. Elections were held on 12 September 2012 to renew nine seats on the Committee. The mandate of the newly elected members will start on 1 January 2013.

Chapter VIII
Reports by States parties under article 35 of the Convention

58. The Committee noted that the reports of 10 States parties would be due in the course of 2013, bringing the expected total to 69 reports by the end of 2013. In that respect, it recalled the obligation of States parties to submit reports. It encouraged States parties to comply with their reporting obligation under the Conventions by referring to the content of article 35 of the Convention and noted that the reporting guidelines adopted at the Committee's second session had been sent by notes verbales to all States parties to the Convention and were also available on the Committee's website. Document CRPD/C/8/2 contains a table showing the dates by which the initial reports of States parties should be submitted.

Annexes

Annex I

Membership of the Committee on the Rights of Persons with Disabilities

A. Membership of the Committee and terms of office at the time of the eighth session

Name of member	*State party*	*Term of office expires on 31 December*
Ms. Amna Ali **Al Suwaidi**	Qatar	2012
Mr. Mohammed **Al-Tarawneh**	Jordan	2016[b]
Mr. Lotfi Ben **Lallahom**	Tunisia	2014[a]
Mr. Monsur Ahmed **Chowdhury**	Bangladesh	2012
Ms. Maria Soledad **Cisternas Reyes**	Chile	2016[b]
Ms. Theresia **Degener**	Germany	2014
Mr. Gábor **Gombos**	Hungary	2012
Ms. Fatiha **Hadj-Salah**	Algeria	2012
Mr. Hyung Shik **Kim**	Republic of Korea	2014
Mr. Stig **Langvad**	Denmark	2014
Ms. Edah Wangechi **Maina**	Kenya	2014[a]
Mr. Ronald **McCallum**	Australia	2014[a]
Ms. Silvia Judith **Quan-Chang**	Guatemala	2016[b]
Ms. Ana **Peláez Narváez**	Spain	2016[b]
Mr. Carlos **Rios Espinosa**	Mexico	2014
Mr. Germán Xavier **Torres Correa**	Ecuador	2014[a]
Mr. Damjan **Tatic**	Serbia	2014
Ms. Jia **Yang**	China	2012

[a] As of 1 January 2011, term of office extended until 2014.

[b] Re-elected in September 2012.

B. Newly elected members of the Committee and terms of office*

Name of member	*State party*	*Term of office expires on 31 December*
Mr. Munthian **Buntan**	Thailand	2016
Mr. László Gábor **Lovaszy**	Hungary	2016
Mr. Martin Babu **Mwesigwa**	Uganda	2016
Ms. Diane **Mulligan**	United Kingdom of Great Britain and Northern Ireland	2016
Ms. Safak **Pavey**	Turkey	2016

* New members were elected on September 2012 and will take up their duties on 1 January 2013.

Annex II

Consideration of reports pursuant to article 35 of the Convention on the Rights of Persons with Disabilities by the Committee during its fifth, sixth, seventh and eighth sessions

A. Concluding observations of the Committee adopted at its fifth session

Tunisia (CRPD/C/TUN/CO/1)

1. The Committee considered the initial report of Tunisia (CRPD/C/TUN/1) at its 46th, 47th, and 48th meetings (see CRPD/C/SR.46-48), held on 12 and 13 April 2011, and adopted the following concluding observations at its 52nd meeting, held on 15 April 2011.

I. Introduction

2. The Committee welcomes the initial report of Tunisia, which was one of the first States to ratify the Convention and its Optional Protocol, as well as the written replies to the list of issues (CRPD/C/TUN/Q/1/Add.1). The two documents enabled the Committee to gain a better understanding of the implementation of the Convention in the State party.

3. The Committee highly appreciates the presence of the delegation for the dialogue, despite the country being in a transitional situation since the democratic revolution of 14 January 2011, and welcomes the open dialogue with a competent delegation representing several segments of the Government, and including an expert with disabilities among its members.

II. Positive aspects

4. The Committee notes with appreciation that the initial report was prepared in a process of extensive national consultations, including with disabled persons' organizations.

5. The Committee welcomes the measures taken by the State party to initiate harmonization of domestic law and policy with the Convention, including the adoption of:

(a) Law No. 83 of 15 August 2005 on the advancement and protection of persons with disabilities;

(b) Law No. 80 of 23 July 2002, supplemented by Law No. 9 of 11 February 2008, which prohibits discrimination against school-age children.

6. The Committee welcomes the amendment of article 319 of the Penal Code in 2010, which prohibits all forms of violence against children, regardless of who the perpetrator — including parents or tutors — may be.

III. Factors and difficulties impeding the implementation of the Convention

7. The Committee notes that the implementation of some aspects of the Convention might be influenced by the uncertainty and rapidly changing situation in the State party, following the democratic revolution. It notes the far-reaching institutional changes taking place in recent months, and views those changes as a unique opportunity for persons with disabilities to take part in the building of a new country.

IV. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1 and 4)

8. The Committee notes Order No. 3086 of 29 November 2005, defining disability and setting forth the proof required to obtain a disability card, and the State party's endeavour to shift from a medical approach to a social approach. However, it is concerned at the risk of exclusion of persons who should be protected by the Convention, in particular persons with psychosocial disabilities ("mental illness") or intellectual disabilities, or others who are unable to obtain a disability card, either due to disability or by association with a disability.

9. **The Committee invites the State party to review and reformulate the definition of disability based on the Convention.**

10. **In accordance with article 4, paragraph 3, of the Convention, the Committee recommends that the State party encourage and support the creation, capacity-building and effective participation of representative organizations or groups of persons with disabilities, and parents of persons with disabilities at the local and national levels in the conception, design, reform and implementation of policies and programmes. In particular, the Committee urges the State party to ensure that persons with disabilities are consulted and actively involved, including as members of the Constitutional Council, in the drafting of the new Constitution.**

11. **The Committee recommends that the State party take steps to further facilitate the full participation of women, men, girls and boys with disabilities and their families in society.**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

12. The Committee takes note of Law No. 2005-83 on the advancement and protection of persons with disabilities. However it regrets the lack of clarity on the application of the concept of reasonable accommodation.

13. **The Committee recommends that the State party incorporate the definition of reasonable accommodation in national law, and apply it in accordance with article 2 of the Convention, in particular by ensuring that the law explicitly recognizes the denial of reasonable accommodation as disability-based discrimination. The Committee invites the State party to make greater efforts to raise awareness of non-discrimination among members of the legal profession, particularly the judiciary, and persons with disabilities themselves, including through training programmes on the concept of reasonable accommodation. The Committee recommends that the State party act with urgency to include an explicit prohibition of disability-based discrimination in an anti-discrimination law, as well as ensure that disability-based discrimination is prohibited in all laws, particularly those governing elections, labour, education, and health, among others.**

Women with disabilities (art. 6)

14. While noting the improvements in the condition of women in general, the Committee is concerned by the negative perception of women with disabilities within the family and society, and the reported cultural, traditional and family pressures that favour the concealment of women with disabilities, and prevents them from obtaining a disability card, thereby limiting their opportunities to participate in society, and develop to their full potential.

15. **The Committee recommends that the State party:**

(a) Design and implement awareness-raising campaigns and education programmes throughout society, including at the family level, on women with disabilities in order to foster respect for their rights and dignity; combat stereotypes, prejudices and harmful practices; and promote awareness of their capabilities and contributions;

(b) Ensure the visibility of women with disabilities in the collection of data and statistics (see paragraph 37 below);

(c) Undertake studies and research in order to identify the situation and specific requirements of women with disabilities, with a view to elaborating and adopting strategies, policies and programmes, especially in the fields of education, employment, health and social protection, to promote their autonomy and full participation in society, and to combat violence against women.

Children with disabilities (art. 7)

16. The Committee is particularly concerned at the low rate of reporting (signalement) of cases of habitual mistreatment of children, including children with disabilities, which may amount to situations of danger, in view of the results of the Multiple Indicator Cluster Survey (MICS 2006) which indicated that 94 per cent of children aged between 2 and 14 years are disciplined in the home through violent means, whether verbal, physical, or through deprivation.

17. **The Committee recommends that the State party:**

(a) Evaluate the phenomenon of violence against boys and girls with disabilities, and compile systematic disaggregated data (see paragraph 39 below) with a view to better combating it;

(b) Ensure that institutions providing care for children with disabilities are staffed with specially trained personnel, subject to appropriate standards, regularly monitored and evaluated, and establish complaint procedures accessible to children with disabilities;

(c) Establish independent follow-up mechanisms; and

(d) Take steps to replace institutional care for boys and girls with disabilities with community-based care.

Awareness-raising (art. 8)

18. The Committee notes the strategy of information, education and communication to raise awareness of persons with disabilities, including training for judicial and education personnel. The Committee, however, regrets the lack of information about training provided to other public officials on the Convention.

19. **The Committee encourages the State party to establish awareness-raising and training programmes that are in conformity with the principles of the Convention for all officials involved in the promotion, protection or implementation of the rights of persons with disabilities, including officials at the local level dealing with persons with disabilities.**

Accessibility (art. 9)

20. The Committee takes note of the National Strategy on environmental management and the implementation of the first Action Plan in this area, covering the period 2008–2010. However, it remains concerned that gaps continue to impede full accessibility for persons with disabilities, on an equal basis with others, to all facilities and services open or provided to the public, including access to information, communications and transport.

21. **The Committee recommends that the State party, in close consultation with persons with disabilities and their representative organizations, undertake a comprehensive review of the implementation of laws on accessibility in order to identify, monitor and address those gaps. It recommends that awareness-raising programmes be conducted for the relevant professional groups and all stakeholders. It further recommends that sufficient financial and human resources be allocated as soon as possible to implement the national plan on accessibility for existing and future infrastructure.**

Equal recognition before the law (art. 12)

22. The Committee is concerned that no measures have been undertaken to replace substitute decision-making by supported decision-making in the exercise of legal capacity.

23. **The Committee recommends that the State party review the laws allowing for guardianship and trusteeship, and take action to develop laws and policies to replace regimes of substitute decision-making by supported decision-making. It further recommends that training be provided on this issue to all relevant public officials and other stakeholders.**

Liberty and security of the person (art. 14)

24. With reference to article 14 of the Convention, the Committee is concerned that having a disability, including an intellectual or psychosocial disability, can constitute a basis for the deprivation of liberty under current legislation.

25. **The Committee recommends that the State party repeal legislative provisions which allow for the deprivation of liberty on the basis of disability, including a psychosocial or intellectual disability. The Committee further recommends that until new legislation is in place, all cases of persons with disabilities who are deprived of their liberty in hospitals and specialized institutions be reviewed, and that the review include the possibility of appeal.**

Freedom from exploitation, violence and abuse (art. 16)

26. The Committee expresses concern at the situation of violence that women and children with disabilities might face.

27. **The Committee encourages the State party to include women and girls with disabilities in the national strategy for the prevention of violence in the family and society, and to adopt comprehensive measures for them to have access to immediate protection, shelter and legal aid. It requests the State party to conduct awareness campaigns and develop educational programmes on the greater vulnerability of women and girls with disabilities with respect to violence and abuse.**

Integrity of the person (art. 17)

28. The Committee is concerned about the lack of clarity concerning the scope of legislation to protect persons with disabilities from being subjected to treatment without their free and informed consent, including forced treatment in mental health services.

29. **The Committee recommends that the State party incorporate into the law the abolition of surgery and treatment without the full and informed consent of the patient, and ensure that national law especially respects women's rights under article 23 and 25 of the Convention.**

Education (art. 24)

30. The Committee takes note of the national programme of inclusive education for children with disabilities. However, it notes with deep concern that, in practice, the

inclusion strategy is not equally implemented in schools; rules relating to the number of children in mainstream schools and to the management of inclusive classes are commonly breached; and schools are not equitably distributed between regions of the same governorate.

31. The Committee is equally concerned that many integrated schools are not equipped to receive children with disabilities, and that the training of teachers and administrators with regard to disabilities remains a concern in the State party.

32. **The Committee recommends that the State party:**

(a) Take measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion on an equal basis with others and, in this regard, provide information intended for the general public in accessible formats and — especially with respect to the deaf, hard-of-hearing, and deaf-blind — recognize and promote the use of sign language;

(b) Increase its efforts to enforce inclusive education for girls and boys with disabilities in all schools;

(c) Intensify training for education personnel, including teachers and administrators;

(d) Allocate sufficient financial and human resources to implement the national programme of inclusive education for children with disabilities.

Work and employment (art. 27)

33. The Committee takes note of the State party's efforts to support the employment of persons with disabilities in public services. However, it remains concerned at the low level of inclusion of persons with disabilities in the private sector.

34. **The Committee recommends that the State party:**

(a) Ensure the implementation of measures of affirmative action provided for in the law for the employment of women and men with disabilities;

(b) Increase the diversity of employment and vocational training opportunities for persons with disabilities; and

(c) Ensure the participation of persons with disabilities and their representative organizations within the Labour Inspection Office and the Conciliation Committees.

Participation in political and public life (art. 29)

35. **The Committee recommends the urgent adoption of legislative measures to ensure that persons with disabilities, including persons who are currently under guardianship or trusteeship, can exercise their right to vote and participate in public life, on an equal basis with others.**

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

36. The Committee welcomes the plans to develop a database to store all available data on persons with disabilities (CRPD/C/TUN/1, para. 7), but regrets the low level of visibility of women with disabilities. The Committee recalls that such information is indispensable to understanding the situation of women with disabilities in the State party, and to assessing the implementation of the Convention.

37. **The Committee recommends that the State party systematize the collection, analysis and dissemination of data, disaggregated by sex, age and disability, enhance capacity-building in this regard, and develop gender-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring and reporting on progress made with regard to the implementation of the various provisions of the Convention.**

38. The Committee regrets the invisibility of children with disabilities in data related to protection of children.

39. **The Committee recommends that the State party systematically collect, analyse and disseminate data, disaggregated by sex, age and disability, on abuse and violence against children.**

International cooperation (art. 32)

40. **The Committee encourages the State party to ensure that all international cooperation carried out on its territory, or in partnership with it, is fully inclusive of persons with disabilities, and promotes their active participation in international cooperation projects.**

National implementation and monitoring (art. 33)

41. The Committee takes note of the existence of specialized institutions mandated to protect the rights of persons with disabilities, namely the Higher Council for the Social Advancement and Protection of Persons with Disabilities and the Higher Committee for Human Rights and Fundamental Freedoms. However, it is concerned by the low participation of persons with disabilities in, and the independence of, these institutions.

42. **The Committee recommends that the State party:**

(a) Ensure that disabled persons' organizations are able to participate in the Higher Council for the Social Advancement and Protection of Persons with Disabilities, and thus play a central role in monitoring the implementation of the Convention;

(b) Ensure that the Higher Committee for Human Rights and Fundamental Freedoms complies with the Principles relating to the status of national institutions (see General Assembly resolution 48/134, annex), and establish a dedicated unit on disabilities.

Follow-up and dissemination

43. The Committee notes with appreciation the voluntary pledge and commitment made by the State party to implement the recommendations of the Committee (CRPD/C/TUN/1, para. 4) and, in this regard, requests it to include in its second periodic report detailed information on measures taken to follow up the recommendations made in the present concluding observations. The Committee recommends that the State party take all appropriate measures to ensure that these recommendations are implemented, by, inter alia, transmitting them for consideration and action to members of the Government and Parliament, as well as local authorities.

44. The Committee encourages the State party to continue to implement the Convention, and to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its second periodic report.

45. The Committee requests the State party to disseminate these concluding observations widely, including to public agencies, the judiciary, non-governmental organizations and other members of the civil society, and to take steps to make them known to persons with disabilities and members of their families in accessible formats.

Technical cooperation

46. The Committee recommends that the State Party avail itself of technical cooperation from the member organizations of the Inter-Agency Support Group (IASG) for the Convention for the purpose of obtaining guidance and assistance on implementing the Convention and the present concluding observations. It recommends, in this regard, that the State party conclude an agreement with the Office of the United Nations High Commissioner for Human Rights (OHCHR) to establish a country office as soon as possible.

Next report

47. The Committee requests the State party to submit its second periodic report no later than 2 April 2014, and to include therein information on the implementation of the present concluding observations.

48. The Committee draws the State party's attention to the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6), which require State reports to be submitted in two parts: a common core document and a treaty-specific document, of which only the later was available to the Committee during the dialogue. The Committee recommends that the State party elaborate and submit a common core document in accordance with the guidelines.

B. Concluding observations of the Committee adopted at its sixth session

Spain (CRPD/C/ESP/CO/1)

1. The Committee considered the initial report of Spain (CRPD/C/ESP/1) at its 56th and 57th meetings (see CRPD/C/6/SR.3–4), held on 20 September 2011, and adopted the following concluding observations at its 62nd meeting, held on 23 September 2011.

I. Introduction

2. The Committee welcomes the initial report of Spain, which was the first State to submit its initial report to the Committee. The Committee commends the State party for the written replies to the list of issues raised by the Committee (CRPD/C/ESP/Q/1/Add.1) and for the comprehensive responses to the questions posed during the dialogue.

3. The Committee commends the State party for its delegation, which included among its members representatives of various Government ministries, including many senior representatives, as well as two persons with disabilities. The Committee expresses its appreciation for the spirited and fruitful dialogue held between the delegation and the members of the Committee.

II. Positive aspects

4. The Committee congratulates the State party for the progress made in many areas related to the rights of persons with disabilities, including the adoption of Act 26/2011 of 1 August 2011 on the normative adaptation to the Convention, amending regulations and modifying several Spanish laws in response to the Convention, and including important positive action measures in health, housing, employment and other areas.

5. The Committee notes with satisfaction Act 51/2003 on equality of opportunity, non-discrimination and "universal accessibility" for persons with disabilities as well as its enabling regulations, in particular the royal decrees providing for basic standards of accessibility.

6. The Committee commends the State party for establishing independent monitoring mechanisms in full compliance with article 33, paragraph 2, of the Convention.

7. The Committee welcomes the State party's adoption of the Third Plan of Action for persons with disabilities, which addresses disability along gender-analysis lines, as well as the Global Action Strategy for the Employment of Persons with Disabilities 2008–2012, including its first plan of action, covering the years 2008–2010.

8. The Committee commends the State party's adoption of its long-term strategy for persons with disabilities (2012–2020), which includes objectives for the short and medium term.

9. The Committee commends the State party for the high percentage (78.35 per cent) of enrolment of children with disabilities in the regular education system, and for the efforts made to maintain the funding for programmes for persons with disabilities in times of economic crisis. In this, Spain is setting a very important example of fulfilling the purpose of article 4, paragraph 2, of the Convention. The Committee further welcomes the commitment of the State party to avoid reducing social assistance.

10. The Committee acknowledges the efforts that the State party has made to strengthen its commitment to international cooperation by allocating earmarked funding for disability-inclusive development.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1 and 4)

11. The Committee takes note of the adoption of Act 26/2011, which introduces the concept of persons with disabilities as defined in the Convention and expands the protection of such persons. However, it is concerned that not all persons with disabilities are covered by the law.

12. **The Committee urges the State party to ensure that all persons with disabilities enjoy protection against discrimination and have access to equal opportunities irrespective of their level of disability.**

13. The Committee welcomes Act 49/2007 of 26 December 2007, which establishes the Permanent Specialized Office to deal with offences and sanctions in the areas of equal opportunities, non-discrimination and universal accessibility by persons with disabilities. However, it is concerned by the slow development and lack of promotion of this arbitration system at the regional government level, by the lack of information on the number of sanctions submitted and resolved, and by the failure of the State party to report on actions undertaken to implement this law. The Committee is concerned about the overall effectiveness of the system.

14. **The Committee recommends that the State party raise awareness among persons with disabilities about the system of arbitration, increase the level of free legal aid, and ensure the regulation of offences and sanctions at the regional government level.**

15. The Committee regrets the lack of information on the meaningful participation of persons with disabilities and their representative organizations at the regional level in designing and evaluating the implementation of legislation, policy and decision-making processes, and on the participation of children with disabilities at all levels.

16. **The Committee recommends that the State party take specific measures to ensure the active participation of persons with disabilities in public decision-making processes at the regional level, and to include children with disabilities at all levels.**

17. The Committee takes note of Act 2/2010 of 3 March 2010 on sexual and reproductive health, which decriminalizes voluntary termination of pregnancy, allows pregnancy to be terminated up to 14 weeks and includes two specific cases in which the time limits for abortion are extended if the foetus has a disability: until 22 weeks of gestation, provided there is "a risk of serious anomalies in the foetus", and beyond week 22 when, inter alia, "an extremely serious and incurable illness is detected in the foetus". The Committee also notes the explanations provided by the State party for maintaining this distinction.

18. **The Committee recommends that the State party abolish the distinction made in Act 2/2010 in the period allowed under law within which a pregnancy can be terminated based solely on disability.**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

19. The Committee welcomes the regulatory amendments introduced under Act 26/2011 that would abolish the need to have a disability certificate to bring a discrimination claim before a judicial body. However it regrets the lack of information on cases of discrimination, and it is concerned that persons with disabilities will still be marginalized. The Committee is further concerned by the lack of information on reasonable accommodation. It is also concerned that, in practice, disability affects parents' guardianship or custody of their children and that legal protection against discrimination on the grounds of disability is not enforceable in cases of discrimination due to perceived disability or association with a person with a disability.

20. **The Committee urges the State party to expand the protection of discrimination on the grounds of disability to explicitly cover multiple disability, perceived disability and association with a person with a disability, and to ensure the protection from denial of reasonable accommodation, as a form of discrimination, regardless of the level of disability. Moreover, guidance, awareness-raising and training should be given to ensure a better comprehension by all stakeholders, including persons with disabilities, of the concept of reasonable accommodation and prevention of discrimination.**

Women with disabilities (art. 6)

21. The Committee is concerned that public programmes and policies on the prevention of gender-based violence do not sufficiently take into consideration the particular situation of women with disabilities. The Committee is also concerned that employment policies do not include a comprehensive gender perspective and that unemployment, inactivity and training rates are significantly worse for women than for men with disabilities.

22. **The Committee recommends that the State party:**

(a) Include a more comprehensive consideration of women with disabilities in public programmes and policies on the prevention of gender-based violence, particularly so as to ensure access for women with disability to an effective, integrated response system;

(b) Include a gender perspective in employment policies, and particularly specific measures for women with disabilities;

(c) Elaborate and develop strategies, policies and programmes, especially in the fields of education, employment, health and social protection, to promote the autonomy and full participation of women and girls with disability in society, and to combat violence against them.

Children with disabilities (art. 7)

23. The Committee is particularly concerned at the reportedly higher rates of abuse of children with disabilities in comparison with other children. The Committee is equally concerned by the lack of early identification, family interventions and informed support of children with disabilities, which puts at risk their full development and ability to express their views, and by the lack of available resources and coordinated public administration in the social, health and education services, among others.

24. **The Committee recommends that the State party:**

(a) Increase efforts to promote and protect the rights of children with disabilities, and to undertake research on violence against children with disabilities, adopting measures to eradicate this violation of their rights;

(b) Establish policies and programmes that will ensure the right of children with disabilities to express their own views;

(c) Develop coordinated public policies with sufficient resources to ensure inclusive access to support services that include informed therapeutic, rehabilitation and habilitation services, and care which covers the health, psychosocial and education needs of children with disabilities, in particular during early childhood.

Awareness-raising (art. 8)

25. The Committee commends the many initiatives taken by the State party to implement the Convention. However, it notes that more needs to be done to increase awareness in society, in the media and among persons with disabilities themselves of the rights of persons with disabilities.

26. **The Committee calls upon the State party to take proactive measures to enhance awareness of the Convention and the Optional Protocol thereto at all levels, in particular among the judiciary and the legal profession, political parties, Parliament and Government officials, civil society, media, and persons with disabilities, as well as among the general public.**

Accessibility (art. 9)

27. The Committee takes note that Act 26/2011 introduces regulatory amendments that will shorten the timelines for meeting accessibility requirements in public facilities and with respect to goods and services available to the public. However, it remains concerned at the low level of compliance with these requirements, in particular at the regional and local levels, in the private sector, and in relation to existing facilities. The Committee is aware of situations of discrimination faced by air passengers with disabilities, including situations of denial of boarding. The Committee reminds the State party that article 9 of the Convention also requires States to ensure access to information and communication.

28. **The Committee recommends that sufficient financial and human resources be allocated as soon as possible to implement, promote and monitor compliance with accessibility legislation through national measures as well as through international cooperation.**

Right to life (art. 10)

29. The Committee welcomes the fact that Act 26/2011 amends regulations to contain provisions to reflect the right to accessibility when granting informed consent to medical treatment. It however regrets that guardians representing persons with disabilities deemed "legally incapacitated" may validly consent to termination or withdrawal of medical treatment, nutrition or other life support for those persons. The Committee wishes to remind

the State party that the right to life is absolute, and that substitute decision-making in regard to the termination or withdrawal of life-sustaining treatment is inconsistent with this right.

30. **The Committee requests the State party to ensure that the informed consent of all persons with disabilities is secured on all matters relating to medical treatment, especially the withdrawal of treatment, nutrition or other life support.**

Situations of risk and humanitarian emergencies (art. 11)

31. The Committee is concerned at the insufficiency of specific protocols for persons with disabilities in emergency situations.

32. **The Committee calls upon the State party to review its laws and policies related to emergency situations with a view to including provisions guaranteeing the security and protection of persons with disabilities.**

Equal recognition before the law (art. 12)

33. The Committee notes that Act 26/2011 allows a period of one year following its entry into force for the presentation of a bill to govern the scope and interpretation of article 12 of the Convention. The Committee is further concerned that no measures have been taken to replace substitute decision-making by supported decision-making in the exercise of legal capacity.

34. **The Committee recommends that the State party review the laws allowing for guardianship and trusteeship, and take action to develop laws and policies to replace regimes of substitute decision-making by supported decision-making, which respects the person's autonomy, will and preferences. It further recommends that training be provided on this issue for all relevant public officials and other stakeholders.**

Liberty and security of the person (art. 14)

35. The Committee takes note of the legal regime allowing the institutionalization of persons with disabilities, including persons with intellectual and psychosocial disabilities ("mental illness"). It is concerned at the reported trend of resorting to urgent measures of institutionalization which contain only ex post facto safeguards for the affected individuals. It is equally concerned at the reported abuse of persons with disabilities who are institutionalized in residential centres or psychiatric hospitals.

36. **The Committee recommends that the State party: review its laws that allow for the deprivation of liberty on the basis of disability, including mental, psychosocial or intellectual disabilities; repeal provisions that authorize involuntary internment linked to an apparent or diagnosed disability; and adopt measures to ensure that health-care services, including all mental-health-care services, are based on the informed consent of the person concerned.**

Integrity of the person (art. 17)

37. The Committee is concerned that persons with disabilities whose legal capacity is not recognized may be subjected to sterilization without their free and informed consent.

38. **The Committee urges the State party to abolish the administration of medical treatment, in particular sterilization, without the full and informed consent of the patient; and ensure that national law especially respects women's rights under articles 23 and 25 of the Convention.**

Living independently and being included in the community (art. 19)

39. The Committee is concerned at the lack of resources and services to guarantee the right to live independently and to be included in the community, in particular in rural areas. It is further concerned that the choice of residence of persons with disabilities is limited by

the availability of the necessary services, and that those living in residential institutions are reported to have no alternative to institutionalization. Finally, the Committee is concerned about linking eligibility of social services to a specific grade of disability.

40. **The Committee encourages the State party to ensure that an adequate level of funding is made available to effectively enable persons with disabilities: to enjoy the freedom to choose their residence on an equal basis with others; to access a full range of in-home, residential and other community services for daily life, including personal assistance; and to so enjoy reasonable accommodation so as to better integrate into their communities.**

41. The Committee is concerned that the law for the promotion of autonomy limits the resources to hire personal assistants only to those persons who have level 3 disabilities and only for education and work.

42. **The Committee encourages the State party to expand resources for personal assistants to all persons with disabilities in accordance with their requirements.**

Education (art. 24)

43. The Committee welcomes the fact that the principle of inclusion governs the schooling of pupils with special educational needs; that discrimination in education is prohibited; and that most children with disabilities are included in the regular education system. It commends the enactment of Organic Act 2/2006 on education, which obliges the education authorities to provide specialist teachers, qualified professionals and the necessary materials and resources, as well as the laws that oblige schools to make necessary curricular adjustments and diversifications for pupils with disabilities. However, the Committee is concerned by the implementation of these laws in practice, in view of reported cases of failure to provide reasonable accommodation, of continued segregation and exclusion, of financial arguments used as justification for discrimination, and of the cases of children enrolled in special education against their parents' will. The Committee notes with concern that parents challenging the placement of their children with disabilities in special education have no possibility of appeal and that their only alternative is to educate them at their own expense or pay for the reasonable accommodation of their child in the regular education system.

44. **The Committee reiterates that denial of reasonable accommodation constitutes discrimination and that the duty to provide reasonable accommodation is immediately applicable and not subject to progressive realization. It recommends that the State party:**

(a) Increase its efforts to provide reasonable accommodation in education, by: allocating sufficient financial and human resources to implement the right to inclusive education; paying particular attention to assessing the availability of teachers with specialist qualifications; and ensuring that educational departments of local governments understand their obligations under the Convention and act in conformity with its provisions;

(b) Ensure that the decisions to place children with a disability in a special school or in special classes, or to offer them solely a reduced-standard curriculum, are taken in consultation with the parents;

(c) Ensure that the parents of children with disabilities are not obliged to pay for the education or for the measures of reasonable accommodation in mainstream schools;

(d) Ensure that decisions on placing children in segregated settings can be appealed swiftly and effectively.

Right to work (art. 27)

45. Despite a number of enabling provisions to keep persons with disabilities in employment, the Committee is concerned with the overall low rate of employment of persons with disabilities.

46. **The Committee recommends that the State party develop open and advanced programmes to increase employment opportunities for women and men with disabilities.**

Participation in political and public life (art. 29)

47. The Committee is concerned that the right to vote of persons with intellectual or psychosocial disabilities can be restricted if the person concerned has been deprived of his or her legal capacity, or has been placed in an institution. It is further concerned that the deprivation of this right appears to be the rule and not the exception. It regrets the lack of information on standards of evidence or grounds, and criteria used by judges when depriving persons of their right to vote. It notes with concern the number of persons with disabilities denied their right to vote.

48. **The Committee recommends that all relevant legislation be reviewed to ensure that all persons with disabilities, regardless of their impairment, legal status or place of residence, have the right to vote and participate in public life on an equal basis with others. The Committee requests the State party to amend article 3 of Organic Act 5/1985, which allows the denial of the right to vote based on individualized decisions taken by a judge. The amendment should ensure that all persons with disabilities have the right to vote. Furthermore, it is recommended that all persons with disabilities who are elected to a public position are provided with all required support, including personal assistants.**

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

49. The Committee regrets the low level of disaggregated data on persons with disabilities. The Committee recalls that such information is indispensable to: understanding the situations of specific groups of persons with disabilities in the State party who may be subject to varying degrees of vulnerability; developing laws, policies and programmes adapted to their situations; and assessing the implementation of the Convention.

50. **The Committee recommends that the State party systematize the collection, analysis and dissemination of data, disaggregated by sex, age and disability; enhance capacity-building in this regard; and develop gender-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring and reporting on progress made with regard to the implementation of the various provisions of the Convention.**

51. The Committee regrets that the situation of children with disabilities is not reflected in the data on the protection of children.

52. **The Committee recommends that the State party systematically collect, analyse and disseminate data, disaggregated by sex, age and disability, on abuse and violence against children.**

Follow-up and dissemination

53. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. The Committee recommends that the State party transmit the concluding observations for consideration and action to members of the Government and Parliament, officials in the relevant ministries,

and members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities and the media, using modern social communication strategies.

54. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its second periodic report.

55. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in accessible formats.

Next report

56. The Committee requests the State party to submit its second periodic report by no later than 3 December 2015, and to include therein information on the implementation of the present concluding observations.

C. Concluding observations of the Committee adopted at its seventh session

Peru (CRPD/C/PER/CO/1)

1. The Committee considered the initial report of Peru at its 66th and 67th meetings, held on 17 April 2012, and adopted the following concluding observations at its 72nd meeting, held on 20 April 2012.

I. Introduction

2. The Committee expresses its appreciation to the State party for its initial report, which was prepared in accordance with the Committee's reporting guidelines (CRPD/C/2/3), as well as for the written replies to the list of issues (CRPD/C/PER/Q/1/Add.1).

3. The Committee expresses its appreciation for the constructive dialogue held between the delegation and the members of the Committee. The Committee appreciates the presence of the high-ranking delegation, including the Vice-Minister of Women and Vulnerable Populations, and the President of CONADIS (National Council for the Integration of Persons with Disability), the latter an expert with disabilities, among its honourable members.

4. The Committee commends the State party for having ratified the Optional Protocol to the Convention in 2007.

II. Positive aspects

5. The Committee notes with satisfaction the efforts made by the State party to implement the Convention through the adoption of laws, policies, plans and programmes, including the following:

(a) Adoption of Act No. 29392 in August 2009 defining offences and establishing penalties for breach of the General Act on Persons with Disabilities;

(b) Adoption of the Plan on Equality of Opportunities for Persons with Disabilities 2009–2018;

(c) Adoption of a pilot programme on psychosocial integration of persons with disabilities in the region of Tumbes;

(d) Draft bill on the rights of the persons with disabilities, submitted to the Congress in March 2011;

(e) Adoption of Law No. 29535 on sign language;

(f) Increased level of expenditure on its programmes for persons with disabilities.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

6. The Committee is concerned at the absence of a coherent and comprehensive strategy to implement the social model that the Convention establishes, including affirmative actions, to achieve the de facto equality of persons with disabilities and the full realization of the rights enshrined in the Convention, at all levels, including in rural areas. The Committee is further concerned that the State party's legislative framework for disability is not yet in full conformity with the Convention, inter alia:

(a) Law No. 27050 on Persons with Disability provides a definition of disability based on a medical, rather than a social perspective and does not include references to the core principles contained in articles 2 and 3 of the Convention;

(b) Absence of reference to denial of reasonable accommodation and discrimination by association as forms of disability-based discrimination;

(c) Existence of discriminatory requirements to acquire Peruvian nationality that prohibits persons with intellectual and psychosocial disabilities from doing so.

7. **The Committee recommends that State party bring forward a far-reaching strategy to implement all the rights enshrined in the Convention and speed up the review of its legislative framework to bring it in full conformity with all provisions of the Convention, including its core principles, and in particular:**

(a) Amend Law No. 27050 to include a comprehensive definition of a person with disability;

(b) Define denial of reasonable accommodation and discrimination by association as forms of disability-based discrimination;

(c) Amend the Act for Foreigners in order to eliminate the requirements that discriminate against persons with intellectual or psychosocial disabilities.

8. While recognizing positive developments, such as the creation of a Permanent Multi-Sectoral Commission and the establishment of the CONADIS, the Committee regrets the lack of meaningful participation of persons with disabilities, in particular the involvement of children and women with disabilities, and their representative organizations in the design of the legislation, as well as in other policy and decision-making processes.

9. **The Committee recommends that the State party take specific measures to ensure active participation of persons with disabilities, including children and women with disabilities, in planning, executing, and monitoring of public decision-making processes at all levels and in particular in the matters affecting them.**

10. While taking note with appreciation of the adoption of a number of provisions, such as the public budget acts which authorize local and regional governments to allocate 0.5 per cent of their budgets to the improvement or provision of accessibility features, the

the upholding of their rights. The Committee further recommends that the State party take steps to prevent violence, abuse and extreme abandonment of children with disabilities.

Awareness-raising (art. 8)

18. While taking note of some steps taken by the State party to raise awareness of the rights of persons with disabilities, such as the national radio broadcasts, the Committee remains concerned at the insufficiency of these measures and at the existence of private fundraising initiatives using negative stereotypes and a charity-based approach (such as the Peruvian Telethon). The Committee draws the attention of the State party to the fact that far from promoting rights and empowering persons with disabilities, these campaigns perpetuate and reproduce stigma and thus hinder the possibility of constructing a culture in which persons with disabilities are recognized as part of human diversity and society.

19. **The Committee calls upon the State party to take proactive measures to enhance awareness of the Convention and its Optional Protocol at all levels, to develop policies and programmes implemented to ensure elimination of stereotypes and to focus on the dignity, capabilities and contributions to society of persons with disabilities.**

Accessibility (art. 9)

20. The Committee regrets the lack of information on the level of implementation of the State's requirement to have, by 2010, 60 per cent of public facilities accessible for persons with disabilities, as well as the absence of information on compliance with accessibility standards by private companies.

21. **The Committee urges the State party to speed up the plans and programmes directed to make public facilities, communications and public transportation, in the urban and rural areas, accessible for persons with disabilities and to ensure that private entities duly take into account all aspects of accessibility for persons with disabilities.**

Equal recognition before the law (art. 12)

22. The Committee is concerned at reports that a number of persons with disabilities, especially those living in rural areas and in long-term institutional settings, do not have identity cards and, sometimes, have no name.

23. **The Committee urges the State party to promptly initiate programmes in order to provide identity documents to persons with disabilities, including in rural areas and in long-term institutional settings, and to collect complete and accurate data on people with disabilities in institutions who are currently undocumented and/or do not enjoy their right to a name.**

24. The Committee notes with concern that legislation of the State party (article 7 of the Constitution and articles 564 and 565 the Civil Code) is not in conformity with article 12 of the Convention, as it establishes substitute decision-making instead of supported decision-making and permits the suspension of civil rights of persons with disabilities in cases of judicial interdiction. The Committee is also concerned at the lack of information concerning the number of persons who have been subjected to guardianship and trusteeship and the lack of legal remedies and safeguards, such as independent review and right to appeal, that are in place in order to revoke those decisions.

25. **The Committee recommends that the State party abolish the practice of judicial interdiction and review the laws allowing for guardianship and trusteeship to ensure their full conformity with article 12 of the Convention and take action to**

replace regimes of substitute decision-making by supported decision-making, which respects the person's autonomy, will and preferences.

26. The Committee is concerned that the State party's Civil Code denies the ability to exercise the right to marry to the "deaf-mute, blind-deaf and blind-mute persons, as well as to mentally handicapped persons and those suffering from mental deterioration".

27. **The Committee urges the State party to amend the Civil Code in order to adequately guarantee the exercise of civil rights, in particular the right to marry, to all persons with disabilities.**

Liberty and security of the person (art. 14)

28. The Committee notes with concern that article 11 of the General Health Law No. 26842 permits involuntary detention for people with "mental health problems", defined to include people with psychosocial disabilities as well as persons with a "perceived disability" (persons with a drug or alcohol dependence).

29. **The Committee calls upon the State party to eliminate Law No. 29737 which modifies article 11 of the General Health Law, in order to prohibit the deprivation of liberty on the basis of disability, including psychosocial, intellectual or perceived disability.**

Freedom from torture (art. 15)

30. The Committee is concerned at consistent reports of the use of continuous forcible medication, including neuroleptics, and poor material conditions in psychiatric institutions, such as the Larco Herrera Hospital, where some persons have been institutionalized for more than 10 years without appropriate rehabilitation services.

31. **The Committee urges the State party to promptly investigate the allegations of cruel, inhuman or degrading treatment, or punishment in psychiatric institutions, to thoroughly review the legality of the placement of patients in these institutions, as well as to establish voluntary mental health treatment services, in order to allow the persons with disabilities to be included in the community and release them from the institutions.**

Right to live independently and be included in the community (art. 19)

32. The Committee is concerned at the absence of resources and services to guarantee the right of persons with disabilities to live independently and to be included in the community, in particular in rural areas.

33. **The Committee urges the State party to initiate comprehensive programmes to enable persons with disabilities to access a whole range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community, especially in rural areas.**

Respect for home and the family (art. 23)

34. The Committee is deeply concerned that, according to Technical Norm for Family Planning 536/2005 (MINSA) from 26 July 2005, persons with "mental incompetence" can be sterilized without their free and informed consent, as a method of contraception.

35. **The Committee urges the State party to abolish administrative directives on forced sterilization of persons with disabilities.**

Education (art. 24)

36. While taking note with appreciation of a number of ministerial directives aimed at establishing the framework of an inclusive education system, the Committee is concerned at the existing gaps in the de facto implementation of these provisions, in particular at the illiteracy rate among the indigenous peoples and Afro-Peruvian communities, and the impact that this may have on the indigenous and minority children with disabilities.

37. **The Committee recommends that the State party allocate sufficient budget resources to achieve advances in the progress for an inclusive education system for children and adolescents with disabilities, and take appropriate measures to identify and reduce illiteracy among children with disabilities, especially indigenous and Afro-Peruvian children.**

Right to health (art. 25)

38. The Committee is concerned that, according to State party's replies to the list of issues, no rehabilitation services exist for 81 per cent of the population with a disability, and only 1.42 per cent of persons with disabilities are covered by social security programmes. The Committee is also concerned at the lack of health services, in particular in rural areas, as well as numerous limitations to persons with disabilities imposed by Supreme Decree No. 004-2007-SA on Comprehensive Health Insurance. It further regrets the lack of early detection programmes of deafness for children in order to minimize and prevent further disabilities.

39. **The Committee urges the State party to elaborate comprehensive health programmes in order to ensure that persons with disabilities are specifically targeted and have access to rehabilitation and health services in general. The Committee further recommends that the State party:**

(a) Review its legal framework in order to ensure that insurance companies and other private parties do not discriminate against persons with disabilities;

(b) Apply budgetary resources and create skills among health personnel, in order to effectively comply with the right to health care of persons with disabilities, ensuring that hospitals and health centres are accessible to persons with disabilities;

(c) Provide services of early identification of disabilities, in particular deafness, designed to minimize and prevent further disabilities, including among children.

Work and employment (art. 27)

40. While taking note with appreciation of the State party's efforts to increase the level of employment of persons with disabilities, in particular Supreme Decree No. 027-2007-PCM which requires institutions within the public sector to have at least 3 per cent of the total workforce composed of workers with disabilities, the Committee remains concerned at the high rates of unemployment and underemployment of persons with disabilities that, according to the State party's response to the list of issues, go up to nearly 60 per cent and 35.3 per cent respectively.

41. **The Committee urges the State party to develop new policies that promote the inclusion of persons with disabilities in the labour market which could include tax incentives for companies and persons who employ persons with disabilities, the recruitment of persons with disabilities in public administration and the development of self-employment programmes. The Committee further recommends that the State party adopt educational programmes to capacitate persons with disabilities in order to include them in the labour market.**

42. The Committee appreciates the State party's concern with the widespread poverty of persons with disabilities.

43. **The Committee urges the State party to address the negative impact of poverty by mainstreaming disability inclusive socioeconomic development.**

Participation in political and public life (art. 29)

44. The Committee commends the State party for issuing a resolution in October 2011 that nullified previous policies excluding persons with certain psychosocial and intellectual disabilities from the electoral rolls, as well as for updating the National Identity and Civil Status Registry (RENIEC) accordingly. However, the Committee remains concerned by:

(a) The fact that persons with disabilities, who have been judicially interdicted, remain ineligible to vote and that the names of those excluded from the national voter registry have not yet been fully restored;

(b) The lack of information on measures taken in order to inform the persons with disabilities on the above-mentioned developments and prevent such violations from happening in the future;

(c) Numerous cases of persons in institutions who have not been able to exercise their right to vote because they lack identity documents or because of the interdiction to leave the institution, the absence of special assistance or the distance from the polling station.

45. **The Committee recommends that the State party:**

(a) Restore voting rights to all people with disabilities who are excluded from the national voter registry, including people with disabilities subject to judicial interdiction;

(b) Reach out to vulnerable individuals and protect people with disabilities from such violations in the future, including through relevant training;

(c) Guarantee the right to vote of people with disabilities in institutions, by ensuring that they are physically permitted to go to assigned polling stations and have the support required to do so, or to permit alternative options.

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

46. The Committee regrets the low level of disaggregated data on persons with disabilities. The Committee recalls that such information is indispensable to: understanding the situations of specific groups of persons with disabilities in the State party who may be subject to varying degrees of exclusion, especially indigenous people, women and children with disabilities and persons who live in rural areas; developing laws, policies and programmes adapted to their situations; and assessing the implementation of the Convention.

47. **The Committee recommends that the State party systematize the collection, analysis and dissemination of data, disaggregated by sex, age and disability; enhance capacity-building in this regard; and develop gender-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring and reporting on progress made with regard to the implementation of the various provisions of the Convention, taking into consideration the changes from the medical to the social model.**

National implementation and monitoring (art. 33)

48. The Committee is concerned at the lack of clarity as to the functions and division of responsibilities of Multi-Sectoral Permanent Commission and CONADIS, as well as the fact that they are not compliant with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

49. **The Committee recommends that the State party specifically designate a national monitoring mechanism that is in conformity with the Paris Principles, and ensure, as a matter of priority, the full participation in the monitoring process of persons with disabilities and their representative organizations.**

Follow-up to concluding observations and dissemination

50. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. The Committee recommends that the State party transmit the concluding observations for consideration and action to members of the Government and Parliament, officials in the relevant ministries, the judiciary and members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities, the private sector and the media, using modern social communication strategies.

51. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in accessible formats.

52. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its second periodic report.

53. The Committee requests the State party to provide, within two years and in accordance with article 35, paragraph 2 of the Convention, written information on the steps undertaken to implement the recommendations contained in paragraphs 23, 29 and 35.

Technical cooperation

54. The Committee recommends that the State party avail itself of technical cooperation from the member organizations of the Inter-Agency Support Group (IASG) for the Convention for the purpose of obtaining guidance and assistance on implementing the Convention and the present concluding observations.

Next report

55. The Committee requests the State party to provide its next periodic report by April 2016.

D. Concluding observations of the Committee adopted at its eighth session

Argentina (CRPD/C/ARG/CO/1)

1. The Committee considered the initial report of Argentina (CRPD/C/ARG/1) at its 79th and 80th meetings, held on 19 and 20 September 2012, and adopted the following concluding observations at its 91st meeting, held on 27 September 2012.

I. Introduction

2. The Committee wishes to express its appreciation to the State party for its initial report, which was prepared in accordance with the Committee's reporting guidelines (CRPD/C/2/3), and for its written replies to the list of issues (CRPD/C/ARG/Q/1/Add.1).

3. The Committee also expresses its appreciation for the constructive dialogue held between the delegation and the members of the Committee and for the presence of the delegation from the State party.

II. Positive aspects

4. The Committee takes note with satisfaction of the efforts made by the State party to implement the Convention through the adoption of laws, plans and programmes, including the following:

(a) Adoption of Act No. 26571 (2009) on the democratization of political representation, transparency and electoral equity;

(b) Adoption of Act No. 26522 (2009) on audiovisual communication services;

(c) Creation of the Disabilities and Occupational Integration Unit, which is attached to the Supreme Court (December 2010), and a national programme for the assistance of persons with disabilities in their dealings with the bodies responsible for the administration of justice (Decree No. 1375/2011);

(d) Establishment of the Health and Disabilities Technology Centre.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

5. The Committee notes with concern that, despite the steps taken to align the domestic legal system with the Convention, the former continues to exhibit major inconsistencies with the principles and requirements of the Convention, especially as regards equal recognition of persons with disabilities before the law. It also notes with concern that, because not all of the State party's provincial legislation is aligned with the Convention, disparities arise in the approach taken at the local level to the rights of persons with disabilities and to the effective exercise of those rights.

6. **The Committee urges the State party to take the necessary steps to bring all its federal, provincial and local legislation into line with the Convention and to ensure the effective participation of organizations representing persons with disabilities in this process in accordance with article 4, paragraph 3, of the Convention.**

7. The Committee is concerned at the absence of a coherent, overall strategy for the implementation of the human rights model established in the Convention, that provides for affirmative action measures to achieve de facto and de jure equality for persons with disabilities and for giving full effect, at all levels, to the principles and requirements set out in the Convention.

8. **The Committee urges the State party to pursue a broad and comprehensive strategy to realize all the rights set out in the Convention, taking due account of the human rights model of disability. The Committee also recommends that the State party take effective steps to ensure that persons with disabilities — including children and women with disabilities — are actively involved in planning, implementing, monitoring and evaluating this strategy.**

9. The Committee acknowledges the progress represented by the introduction of the Single Disability Certificate. However, it notes with concern that the certificate has not yet been rolled out nationwide and that there are disparities in the criteria used for its issuance.

The Committee is also concerned that some provinces are not yet in compliance with Act No. 24.901 on basic services for persons with disabilities.

10. **The Committee urges the State party to take steps to guarantee the effective implementation of the Single Disability Certificate throughout the country and to standardize the criteria used by the National Rehabilitation Service and the provincial evaluation boards for its issuance. It also urges the State party to ensure that all provinces are in compliance with Act. No. 24.901.**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

11. The Committee notes with concern that neither the concept of reasonable accommodation nor recognition that the denial of such accommodation is a form of discrimination are explicitly included in anti-discrimination laws or in the laws on, among other things, employment, health and education. It also wishes to express its concern at the lack of simplified judicial and administrative remedies that would allow persons with disabilities to report cases of discrimination on grounds of disability. The Committee is concerned at the lack of information on measures and actions designed to address the specific situations of persons with disabilities who belong to indigenous peoples and of deaf-blind persons.

12. **The Committee urges the State party to incorporate the concept of reasonable accommodation into its anti-discrimination legislation and to ensure that the relevant laws and regulations define the denial of reasonable accommodation as a form of discrimination on grounds of disability. The Committee recommends that the State party take steps to simplify existing judicial and administrative remedies in order to enable persons with disabilities to report acts of discrimination to which they have been subjected. The Committee also recommends that the State party devote special attention to the development of policies and programmes for persons with disabilities who belong to indigenous peoples and for deaf-blind persons with a view to putting an end to the many forms of discrimination to which these persons may be subjected.**

Women with disabilities (art. 6)

13. The Committee takes note with concern of the unconvincing measures taken by the State party to address the specific needs of women and girls with disabilities, and it regrets the lack of proper protection for their rights (see CEDAW/C/ARG/CO/6, paras. 43–44). It is particularly concerned that there is no strategy for mainstreaming gender and disability issues into legislation and programmes focusing on women, including those that deal with violence, access to justice, sexual and reproductive rights, and access to the labour market.

14. **The Committee urges the State party to adopt a strategy for guaranteeing full protection and enjoyment of the rights of women and girls with disabilities, while also ensuring their effective participation in decision-making processes. In addition, the Committee recommends that the State party incorporate a disability perspective into all gender equality policies and programmes, thereby guaranteeing the full and effective participation of women with disabilities on the same footing as other women.**

Children with disabilities (art. 7)

15. The Committee notes with concern that Act No. 26.061 on the comprehensive protection of the rights of children and adolescents contains no provisions specifically on children with disabilities. It is also concerned at the lack of information on the situation of children with disabilities in the State party.

16. **The Committee recommends that the State party should, as a priority, incorporate a disability perspective into Act No. 26.061 and the system for the**

comprehensive protection of children's and adolescents' rights. The Committee urges the State party to invest the greatest possible amount of available resources in ending discrimination against children with disabilities and to ensure that they are covered by health insurance schemes and receive the services and benefits, such as pensions and housing, to which they are entitled.

Accessibility (art. 9)

17. The Committee takes note of the State party's current legislation on accessibility for persons with disabilities. However, it notes with concern that, despite the establishment of the Advisory and Monitoring Committee, the State party does not have effective mechanisms for overseeing and evaluating compliance with accessibility legislation in all the areas covered by the Convention or for regulating and monitoring the imposition of sanctions for non-compliance. The Committee is also concerned about the challenge posed by the State party's federal structure in terms of the achievement of full accessibility for all persons with disabilities in every province and municipality in its territory.

18. **The Committee recommends that the State party establish effective mechanisms for monitoring and evaluating compliance with accessibility laws in the State party and that it take the necessary measures to facilitate the alignment of the relevant federal and provincial legislation with the Convention and the development and implementation of accessibility plans. The Committee also urges the State party to ensure that private entities take due account of all aspects of accessibility for persons with disabilities.**

Equal recognition before the law (art. 12)

19. The Committee is deeply concerned about the inconsistencies observed in both the laws already in force and bills that are now being considered in the State party which are based, or continue to be based, on a substitute decision-making model that overrides the wishes of the persons concerned, which clearly runs counter to article 12 of the Convention. The Committee is also concerned at the reluctance of some justice officials to apply the rules that set limits on a court's discretion in restricting the legal capacity of persons with disabilities.

20. **The Committee urges the State party to launch an immediate review of all current legislation that is based on a substitute decision-making model that deprives persons with disabilities of their legal capacity. At the same time, the Committee urges the State party to take steps to adopt laws and policies that replace the substitute decision-making system with a supported decision-making model that upholds the autonomy, wishes and preferences of the persons concerned. In addition, the Committee recommends that training workshops on the human rights model of disability be organized for judges to encourage them to adopt the supported decision-making system instead of granting guardianships or trusteeships.**

21. The Committee expresses concern at the inconsistencies existing between the proposal for the amendment and standardization of the Civil and Commercial Code and the Convention, as the concept of judicial prohibition would be retained and judges would have complete discretion to appoint a trustee or decide on what decision-making support tools are needed by persons with disabilities.

22. **The Committee urges the State party to ensure that the concept of judicial prohibition does not figure in the proposal for the amendment and standardization of the Civil and Commercial Code and to guarantee the effective participation in the review process of organizations representing persons with disabilities.**

Liberty and security of the person (art. 14)

23. The Committee notes with concern that involuntary long-term committal is still common in the State party, despite the fact that deinstitutionalization strategies have been adopted and the National Mental Health Act (Act No. 26.657) is based on the human rights model of disability.

24. **The Committee urges the State party to implement the deinstitutionalization strategies that it has adopted in an effective manner and to develop and implement mental health plans based on the human rights model of disability, along with effective measures to promote the deinstitutionalization of persons with disabilities.**

25. The Committee is concerned that, when a person with a psychosocial or intellectual disability is declared to be exempt from criminal responsibility in criminal proceedings, due process guarantees are not upheld and the person is immediately deprived of his or her liberty without even having been shown to be linked to the event in question.

26. **The Committee requests the State party to modify its federal and provincial criminal laws so that decisions regarding the application of security measures to persons found to be exempt from criminal responsibility are taken only after due process guarantees concerning the right to a defence and the right to the assistance of a lawyer, including any adjustments in the proceedings that may be necessary in order to guarantee the exercise of such rights, have been upheld.**

Freedom from torture (art. 15)

27. The Committee notes with concern that Senate approval of the bill that would create a national mechanism for the prevention of torture has been delayed.

28. **The Committee urges the State party to immediately approve the bill on the creation of a national mechanism for the prevention of torture so that institutionalized persons with disabilities can be monitored and protected from actions that may constitute acts of torture or other forms of cruel, inhuman or degrading treatment or punishment.**

Freedom from exploitation, violence and abuse (art. 16)

29. The Committee notes with concern that neither Act No. 26.485 on comprehensive protection and the prevention, punishment and elimination of violence against women nor Act No. 26.061 on the comprehensive protection of the rights of children and adolescents takes account of the specific situation of women with disabilities and children with disabilities, respectively. The Committee is also concerned about the lack of protection against violence and abuse for institutionalized persons with disabilities.

30. **The Committee urges the State party to guarantee protection for women with disabilities and children with disabilities in, respectively, the revised versions of Act No. 26.485 and Act. No. 26.061 and their implementing regulations. It also urges the State party to incorporate a disability perspective into policies and programmes developed on the basis of these acts. In addition, it recommends that the State party draw up appropriate guidelines for the prevention of violence against persons with disabilities who are institutionalized. The Committee also recommends that the State party collect data and information on violence and abuse against persons with disabilities, paying particular attention to women, children and persons who are institutionalized. To that end, the State party should, inter alia, establish institutional mechanisms for the early detection of situations in which violence may occur, diligently investigate allegations of violent acts and make any adjustments in procedures that may be needed so that victims can testify and those responsible can be prosecuted.**

Protecting the integrity of the person (art. 17)

31. The Committee regrets that, in cases where a woman with disabilities is under guardianship, her legal representative may give consent for a legal abortion on her behalf. It is likewise concerned that persons with disabilities are being sterilized without their free and informed consent.

32. **The Committee recommends that the State party amend article 86 of its Criminal Code and article 3 of Contraceptive Surgery Act No. 26.130 so that they will be in accordance with the Convention and take steps to provide the necessary support to women under guardianship or trusteeship to ensure that the women themselves are the ones who give their informed consent for a legal abortion or for sterilization.**

Living independently (art. 19)

33. The Committee regrets that the State party's Support Service for Independent Living (SAVA) is not yet operational, and it is concerned that the available resources and services are of insufficient quality and quantity to guarantee the right of persons with disabilities to live independently and to be included in the community.

34. **The Committee urges the State party to ensure that the Support Service for Independent Living (SAVA) becomes operational as soon as possible and to develop and implement comprehensive programmes that will enable persons with disabilities to have access to a wide range of in-home, residential, community-based and other rehabilitation services and to freely choose where and how to live.**

Respect for home and the family (art. 23)

35. The Committee notes with concern that the right to form a family is denied to some persons with disabilities, especially those declared "insane" or "lacking legal capacity", in accordance with article 309 of the State party's Civil Code.

36. **The Committee urges the State party to amend the Civil Code to bring it into line with article 12 and article 23, paragraph 1 (b), of the Convention and to make available support services to assist with the demands of parenthood to persons with disabilities who require them.**

Education (art. 24)

37. The Committee notes that the legal framework regulating education in the State party expressly recognizes the principle of inclusive education (Act No. 26.206, art. 11). However, it is concerned that the implementation of this principle is limited, in practice, by a failure to tailor programmes and curricula to the needs of pupils with disabilities and by the prevalence of all sorts of barriers that prevent persons with disabilities from accessing the educational system without discrimination and on an equal footing with other students. The Committee is deeply concerned about the high number of children with disabilities who attend special schools and about the lack of educational resource centres that support the effective inclusion of students with disabilities.

38. **The Committee recommends that the State party develop a comprehensive State education policy that guarantees the right to inclusive education and allocates sufficient budgetary resources to ensure progress towards the establishment of an education system that includes students with disabilities. The Committee also urges the State party to intensify its efforts to ensure that all children with disabilities receive a full compulsory education as established by the State party, while devoting particular attention to indigenous peoples and other rural communities. It likewise urges the State party to take the necessary steps to ensure that pupils with disabilities who attend special schools are enrolled in inclusive schools and to offer reasonable adjustments for students with disabilities within the general education system.**

Health (art. 25)

39. The Committee is concerned about the systemic barriers that make it impossible for persons with disabilities to access health services in the State party. These include physical barriers, a dearth of accessible materials, a lack of health-care professionals trained in the human rights model of disability and restrictions on the exercise of legal capacity that exclude persons with disabilities from taking decisions concerning their own treatment.

40. **The Committee recommends that the State party develop comprehensive health-care programmes that specifically make provision for persons with disabilities and ensure that they have access to habilitation and rehabilitation health services. It urges the State party to allocate budgetary resources and provide training for health personnel in order to effectively realize the right to health of persons with disabilities, while also ensuring that hospitals and health centres are accessible to persons with disabilities.**

41. The Committee regrets that the effective implementation of the National Mental Health Act (Act No. 26.657) is under threat because its implementing regulations have not yet been adopted and because the make-up of its review body has yet to be agreed upon. It also regrets the lack of clear-cut mechanisms for ensuring that persons with disabilities give their free and informed consent for any type of medical treatment before it is administered.

42. **The Committee urges the State party to adopt the implementing regulations for the National Mental Health Act (Act No. 26.657) as soon as possible, to establish its review body, to strengthen the network of community mental health services and to improve coordination between these services and inclusive employment, education and housing mechanisms in order to guarantee the effective implementation of the National Mental Health Act. The Committee also recommends that the State party adopt protocols for ensuring that all persons with disabilities give their free and informed consent for any type of medical treatment before it is administered.**

Work and employment (art. 27)

43. The Committee takes note of the labour law that establishes a minimum quota of 4 per cent for the employment of persons with disabilities in the public sector (Act No. 25.689) and of the various employment programmes for persons with disabilities that have been developed within the public sector. However, the Committee notes with concern that there is a lack of the disaggregated data (by, inter alia, sex, age, type of disability and geographic location) needed to assess compliance with this quota at the national and provincial levels. The Committee is also concerned about the cultural barriers and prejudices that hinder persons with disabilities from entering the labour market, particularly in the private sector, despite the existence of tax incentives for employers. It is also disturbed about discrimination against women with disabilities in the realm of employment.

44. **The Committee urges the State party to develop a public policy to promote the inclusion of persons with disabilities in the labour market through, for example, the launch of awareness-raising campaigns targeting the private sector and the public at large which are designed to break down cultural barriers and prejudices against persons with disabilities, the implementation of reasonable adjustments in order to ensure that persons with disabilities in need of such adjustments can participate in the labour market, and the development of training and self-employment programmes. The Committee recommends that the State party reinforce its measures for monitoring and certifying compliance with the employment quota for persons with disabilities in the public sector. It also recommends that the State party undertake the systematic collection of disaggregated data as a basis for a proper assessment of compliance with the employment quota at the national and provincial levels.**

Adequate standard of living and social protection (art. 28)

45. The Committee notes with concern that provisions in the State party's laws on non-contributory pensions (including the requirement set out in Regulatory Decree No. 432/97 and the eligibility requirement for a welfare pension based on the presence of a disability established in Act No. 18.910) discriminate, either directly or indirectly, against persons with disabilities. The Committee is also concerned about the unequal treatment of migrant workers with disabilities and disabled children of migrant workers in terms of access to social protection measures, such as disability pensions, health care, rehabilitation services and housing.

46. **The Committee urges the State party to review its social security legislation and to reformulate the provisions that prevent persons with disabilities, including migrant workers and disabled children of migrant workers, from having equal access to social protection in accordance with article 28 of the Convention.**

Participation in political and public life (art. 29)

47. The Committee would like to express its recognition of the fact that the State party has repealed the provisions in its Electoral Code that barred deaf-mute persons who do not know how to communicate in writing and persons with psychosocial or intellectual disabilities who have been interned in public institutions from exercising their right to vote. Nevertheless, the Committee remains concerned by:

(a) The fact that the amendments to the Electoral Code have not included the elimination of the provision whereby persons who have been declared legally incompetent by a court of law are barred from exercising their right to vote;

(b) The lack of appropriate measures for ensuring that institutionalized persons with disabilities have access to the polls and can leave the institutions in question in order to vote.

48. **The Committee recommends that the State party:**

(a) Review the Electoral Code and introduce the necessary amendments to bring it into line with the standards set forth in the Convention, particularly with respect to legal capacity and the exercise of the right to vote on an equal basis;

(b) Pursue its efforts to ensure that institutionalized persons with disabilities have access to the polls by, for example, devising and implementing a national plan for ensuring that people are able to exercise their right to participation in political life (CRPD/C/ARG/Q/1/Add.1, para. 249) or other alternative solutions.

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

49. The Committee would like to express its recognition of the State party for the work it has begun in order to conduct the second national disability survey and to underscore the importance of compiling up-to-date data which will provide an accurate picture of the situation of specific groups of persons with disabilities who may be subject to multiple forms of exclusion, particularly women, children, institutionalized persons, those who have been deprived of legal capacity and those belonging to indigenous groups.

50. **The Committee recommends that the State party systematize its collection, analysis and dissemination of statistics and data, taking into consideration the situation of specific groups of persons with disabilities who may be subject to multiple forms of exclusion. The Committee urges the State party to step up its capacity-building measures in this area and to develop indicators that will reflect issues of multiple discrimination and intersectionality as they relate to persons with disabilities,**

taking into consideration the changeover from a medical to a human rights model of disability.

National implementation and monitoring (art. 33)

51. The Committee notes with concern that the National Advisory Commission on the Integration of Persons with Disabilities (CONADIS) is not of a sufficiently high institutional rank to effectively carry out its duties as a mechanism for facilitating and coordinating matters relating to the implementation of the Convention at all levels and in all sectors of government. The Committee also notes with concern that the National Disability Observatory, which is tasked with overseeing the implementation of the Convention, is a subsidiary body of CONADIS, in violation of article 33, paragraph 2, of the Convention and the Paris Principles.

52. **The Committee recommends that the State party raise the institutional rank of CONADIS and endow it with the human and financial resources it needs in order to effectively fulfil its mandate to coordinate the implementation of the Convention at all levels and in all sectors of government. The Committee urges the State party to designate an independent national oversight mechanism that is in full compliance with the Paris Principles and to provide guarantees, as a matter of priority, for the full participation of persons with disabilities and the organizations that represent them in the oversight process.**

Follow-up to concluding observations and dissemination

53. The Committee requests the State party to act upon the recommendations of the Committee as set forth in these concluding observations. The Committee recommends that the State party transmit the concluding observations for consideration and action to members of the Government and Congress, officials in the relevant ministries, the judiciary and members of relevant professional groups, such as education, medical and legal professionals, along with local authorities, the private sector and the media, using modern social communication strategies.

54. The Committee requests the State party to disseminate these concluding observations widely in accessible formats, particularly to non-governmental organizations, organizations representing persons with disabilities, persons with disabilities themselves and members of their families.

55. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its second periodic report.

Technical cooperation

56. The Committee recommends that the State party avail itself of technical cooperation from the member organizations of the Inter-Agency Support Group for the Convention for the purpose of obtaining guidance and assistance in the implementation of the Convention and these concluding observations.

Next report

57. The Committee requests the State party to submit its next periodic report in October 2014.

China (CRPD/C/CHN/CO/1 and (CRPD/C/CHN/CO/1/Corr.1)

I. Introduction

1. The Committee considered the initial report of China (CRPD/C/CHN/1), including Hong Kong, China (CRPD/C/CHN-HKG/1), and Macao, China (CRPD/C/CHN-MAC/1), at its 77th and 78th meetings, held on 18 and 19 September 2012, and adopted the following concluding observations at its 91st meeting, held on 27 September 2012.

2. The Committee welcomes the initial report of China, including Hong Kong, China, and Macao, China, which was prepared in accordance with the Committee's reporting guidelines (CRPD/C/2/3). It also appreciates the written replies to the list of issues raised by the Committee (CRPD/C/CHN/Q/1/Add.1).

3. The Committee expresses its appreciation for the constructive dialogue held between the State party's delegation and the members of the Committee. The Committee commends the State party for its high-ranking delegation, among which were members of Government ministries and experts with disabilities.

4. The Committee regrets the State party's failure to ratify the Optional Protocol to the Convention and invites the State party to reconsider its decision to abstain from signing the Optional Protocol.

II. Positive aspects

5. The Committee congratulates the State party on its achievements in terms of accessibility, such as the accessibility stipulations in the Law on the Protection of Persons with Disabilities, the Implementation Plan for Barrier-Free Construction in the Eleventh Five-Year Plan (2006–2010) or the standards facilitating the use of public facilities for persons with disabilities.

6. The Committee supports the legal protection of workers with disabilities from exploitation, violence and abuse, such as the relevant regulations in the Law on the Protection of Persons with Disabilities, the Law on Public Security Administration Punishments and the Law on Employment Contracts.

7. The Committee welcomes the efforts made by the State party to implement the rights enshrined in the Convention for children with disabilities by upholding the principle of "children first" through the Programme for the Development of Chinese Children (2001–2010) and the prohibition of discrimination against children with disabilities in the Law on the Protection of Minors.

8. The Committee commends the poverty reduction efforts undertaken by the State party, especially regarding the poverty reduction of persons with disabilities.

III. Principle areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

9. The Committee takes note of the prevalence of the medical model of disability in both the definition of disability and the enduring terminology and language of the discourse on the status of persons with disabilities. Therefore, the Committee is concerned about the lack of a coherent and comprehensive disability strategy to implement the human rights model of disability that the Convention establishes to achieve the de facto equality of persons with disabilities and implement the rights enshrined in the Convention at all levels. The Committee is concerned that organizations of persons with disabilities outside of the China Disabled Persons' Federation are not included in the implementation of the Convention.

10. **The Committee urges the introduction of a comprehensive and inclusive national plan of action, which includes full participation of all representatives of persons with disabilities in China, to introduce the human rights model of disability into Chinese disability policy.**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

11. While commending the legal prohibition of disability-based discrimination in the State party, the Committee is concerned about the lack of a comprehensive definition of discrimination against persons with disabilities. The Committee also worries about the contradictions between many local law regulations and the national law with regard to the prohibition of discrimination. The Committee is concerned that the State party does not consistently apply the concept of reasonable accommodation in relation to the principle of non-discrimination.

12. **The Committee expressly encourages the State party to provide a legal definition of discrimination against persons with disabilities and include in such a definition the prohibition of indirect discrimination. The Committee suggests including a definition of reasonable accommodation in Chinese law which reflects the Convention definition covering necessary and appropriate modification and adjustment applicable in a particular case beyond general accessibility. Furthermore, the State party should ensure that the law explicitly recognizes the refusal of reasonable accommodation constitutes disability-based discrimination.**

Children with disabilities (art. 7)

13. The Committee fears that children with disabilities in the State party are at a high risk of abandonment by their parents and are often placed in isolated institutions. For those children with disabilities living at home in rural areas, the Committee is concerned at the lack of community-based services and assistance.

14. **The Committee urges the State party to take measures to fight the widespread stigma in relation to boys and girls with disabilities and revise their strict family planning policy, so as to combat the root causes for the abandonment of boys and girls with disabilities. It asks the State party to provide sufficient community-based services and assistance also in rural areas.**

Awareness-raising (art. 8)

15. The Committee is concerned that the medical model of disability prevails in the awareness-raising attempts of the State party, which is not in accordance with the spirit of the Convention. It is especially concerned with awareness-raising events such as the "All-China Occupational Skills Contest for Persons with Disabilities" and the "Million Young Volunteers to Help Persons with Disabilities" programme that depict persons with disabilities as helpless and dependent human beings segregated from the rest of society.

16. **The Committee wishes to again remind the State party of the Convention's human rights model of disability and asks the State party to promote this concept of persons with disabilities as independent and autonomous rights holders in its awareness-raising programmes. It urges the State party to inform all persons with disabilities, especially those living in rural areas, of their rights, specifically the right to receive minimum welfare subsidies and the right to attend school. The Committee recommends the State party introduce an awareness-raising programme that shows society positive perceptions of persons with disabilities.**

Accessibility (art. 9)

17. While appreciating the State party's advancements concerning accessibility in urban areas, the Committee takes note of the lack of information concerning both accessibility in rural areas and the effects of non-compliance with accessibility measures and monitoring and evaluating accessibility.

18. **The Committee asks the State party to provide such information in its next report. Considering the large proportion of persons with disabilities who live in rural areas (75 per cent), it specifically urges the State party to ensure that accessibility is guaranteed not only in urban, but also in rural areas. It also asks the State party not to restrict the barrier-free infrastructure to environments often frequented by persons with disabilities.**

Right to life (art. 10)

19. The Committee expresses its utmost concern about the abduction of persons with intellectual disabilities, most of them children, and the staging of "mining accidents" in Hebei, Fujian, Liaoning and Sichuan, resulting in the victim's death in order to claim compensation from the mine owners.

20. **The Committee strongly urges the State party to continue investigating these incidents and prosecute all those responsible, and impose appropriate sanctions. It also asks the State party to implement comprehensive measures to prevent further abductions of boys with intellectual disabilities and provide remedies to the victims.**

Equal recognition before the law (art. 12)

21. The Committee is concerned about the system for establishing legal guardianship, which is not in compliance with article 12 of the Convention. It takes note of the complete absence of a system of supported decision-making measures which recognize the rights of persons with disabilities to make their own decisions and to have their autonomy, will and preferences respected.

22. **The Committee urges the State party to adopt measures to repeal the laws, policies and practices which permit guardianship and trusteeship for adults and take legislative action to replace regimes of substituted decision-making by supported decision-making, which respects the person's autonomy, will and preferences, in the exercise of one's legal capacity in accordance with article 12 of the Convention. In addition, the Committee recommends that the State party, in consultation with organizations of persons with disabilities, prepare, legislate and implement a blueprint for a system of supported decision-making, which includes:**

(a) Recognition of all persons' legal capacity and right to exercise it;

(b) Accommodations and access to support where necessary to exercise legal capacity;

(c) Regulations to ensure that support respects the person's autonomy, will and preferences and establishment of feedback mechanisms to ensure that support is meeting the person's needs;

(d) Arrangements for the promotion and establishment of supported decision-making.

Access to justice (art. 13)

23. While appreciating the establishment of legal aid service centres for persons with disabilities, the Committee notes that these service centres often lack the necessary resources and do not operate on an independent basis. The Committee is concerned that

neither the criminal nor the civil procedure laws in China are accessible for the use of persons with disabilities on an equal basis with others and, instead, patronizing measures are put into place, such as the designation of public defenders that treat the person concerned as if they lacked legal capacity.

24. **The Committee suggests that the State party allocate the necessary human and financial resources to the legal aid service centres. It asks the State party to ensure that these centres safeguard the access to justice of persons with disabilities independently and in practice, including below the county level. The Committee suggests that the State party review its procedural civil and criminal laws in order to make mandatory the necessity to establish procedural accommodation so those persons with disabilities who intervene in the judicial system can do it as subject of rights and not as objects of protection.**

Liberty and security of the person (art. 14)

25. The Committee is concerned that the deprivation of liberty on the grounds of disability is allowed in the State party, and that involuntary civil commitment is perceived as a tool to maintain public order. In this context, the Committee finds it disturbing that many persons with actual or perceived impairments are involuntarily committed to psychiatric institutions for various reasons, such as being petitioners. In addition, the Committee is concerned that many persons who indeed live with intellectual and psychosocial impairments and require a high level of support lack the adequate resources for their medical and social care and are thus permanently confined at home.

26. **The Committee recommends the abolishment of the practice of involuntary civil commitment based on actual or perceived impairment. In addition, the Committee asks the State party to allocate more financial resources to persons with intellectual and psychosocial disabilities who require a high level of support, in order to ensure social support and medical treatment outside their own home when necessary.**

Freedom from torture (art. 15)

27. For those involuntarily committed persons with actual or perceived intellectual and psychosocial impairments, the Committee is concerned that the "correctional therapy" offered at psychiatric institutions represents inhuman and degrading treatment. Further, the Committee is concerned that not all medical experimentation without free and informed consent is prohibited by Chinese law.

28. **The Committee urges the State party to cease its policy of subjecting persons with actual or perceived impairments to such therapies and abstain from involuntarily committing them to institutions. Further it urges the State party to abolish laws which allow for medical experimentation on persons with disabilities without their free and informed consent.**

Freedom from exploitation, violence and abuse (art. 16)

29. The Committee is deeply troubled by the reported incidents of abduction and forced labour of thousands of persons with intellectual disabilities, especially children, such as the occurrence of slave labour in Shanxi and Henan.

30. **The Committee strongly urges the State party to continue investigating these incidents and prosecute the perpetrators. The Committee asks the State party to implement comprehensive measures to prevent further abductions of persons with intellectual disabilities and provide remedies to the victims, by including data collection on the prevalence of exploitation, abuse and violence against persons with disabilities.**

Right to live independently and live in the community (art. 19)

31. The Committee is concerned about the high number of persons with disabilities living in institutions and about the fact that China maintains institutions with up to 2,000 residents. Such institutions are not in compliance with article 19 of the Convention. The Committee is further concerned about the existence of leper colonies, where people with leprosy live in isolation.

32. **The Committee recommends taking immediate steps to phase out and eliminate institution-based care for people with disabilities. Further, the Committee recommends that State party consult with organizations of persons with disabilities on developing support services for persons with disabilities to live independently in accordance with their own choice. Support services should also be provided to persons with a high level of support needs. In addition, the Committee suggests that the State party undertake all necessary measures to grant people with leprosy the medical treatment needed and to reintegrate them into the community, thereby eliminating the existence of such leper colonies.**

Respect for home and the family (art. 23)

33. The Committee is deeply concerned that both the State party's laws and its society accept the practice of forced sterilization and forced abortion on women with disabilities without free and informed consent.

34. **The Committee calls upon the State party to revise its laws and policies in order to prohibit compulsory sterilization and forced abortion on women with disabilities.**

Education (art. 24)

35. The Committee is concerned about the high number of special schools and the State party's policy of actively developing these schools. The Committee is especially worried that in practice only students with certain kinds of impairments (physical disabilities or mild visual disabilities) are able to attend mainstream education, while all other children with disabilities are forced to either enrol in a special school or drop out altogether.

36. **The Committee wishes to remind the State party that the concept of inclusion is one of the key notions of the Convention and should be especially adhered to in the field of education. In this regard, the Committee recommends that the State party reallocate resources from the special education system to promote the inclusive education in mainstream schools, so as to ensure that more children with disabilities can attend mainstream education.**

Right to health (art. 25)

37. The Committee is concerned about the current involuntary commitment system in the State party. It takes note of the Draft Mental Health Act and the ordinances of six major cities in the State party on mental health which do not respect the individual will of persons with disabilities.

38. **The Committee advises the State party to adopt measures to ensure that all health care and services provided to persons with disabilities, including all mental health care and services, is based on the free and informed consent of the individual concerned, and that laws permitting involuntary treatment and confinement, including upon the authorization of third party decision-makers such as family members or guardians, are repealed. It recommends that the State party develop a wide range of community-based services and supports that respond to needs expressed by persons with disabilities, and respect the person's autonomy, choices, dignity and privacy, including peer support and other alternatives to the medical model of mental health.**

Rehabilitation and habilitation (art. 26)

39. The Committee is concerned with the imposition of rehabilitation and habilitation measures on persons with disabilities, especially persons with psychosocial or intellectual disabilities, without their informed consent.

40. **The Committee recommends that a rights-based approach to rehabilitation and habilitation be put in place and ensure that such programmes promote the informed consent of individuals with disabilities and respects their autonomy, integrity, will and preference.**

Work and employment (art. 27)

41. While observing the existence of a quota system, the Committee worries that this system does not effectively address the chronic problem of unemployment among persons with disabilities or the deep-rooted causes of discrimination in employment. Specifically, the Committee is concerned that often the employment offered is only of symbolic value or that companies and Government bodies frequently opt to pay the employment levy rather than employing persons with disabilities. The Committee is also concerned about the practice of reserved employment (such as the field of "blind massage"), which discriminates against persons with disabilities in their vocational and career choices.

42. **The Committee recommends that the State party undertake all necessary measures to ensure persons with disabilities the freedom of choice to pursue vocations according to their preferences. It suggests that the State party create more working opportunities and enact legislature, so that companies and State organs employ more persons with disabilities.**

Adequate standard of living and social protection (art. 28)

43. While appreciating the existence of a policy of poverty reduction and providing benefits and subsidies, the Committee is concerned about the gap in receiving such benefits between the persons with disabilities living in rural and urban areas.

44. **The Committee recommends that the State party increase measures to remedy the gap for the awarding of benefits between rural and urban areas and take steps to ensure that persons with disabilities — regardless of how they acquire their disability — have immediate access to certification and benefits. It asks the State party to specifically inform persons with disabilities in rural areas of their right to benefits and develop a system to prevent the corruption in the context of allocation and distribution of welfare benefits by local officials.**

Participation in political and public life (art. 29)

45. The Committee is concerned with article 26 of the Election Law, which excludes citizens with intellectual and psychosocial impairments from the voting process.

46. **The Committee recommends that the State party revise article 26 of the Election Law to ensure that all persons with disabilities have the right to vote on an equal basis with others.**

C. Specific obligations (arts. 31–33)

Statistics and data (art. 31)

47. The Committee takes note that disaggregated appropriate information, including statistical and research data which enables the State party to formulate and implement policies to give effect to the Convention, is often not available due to laws and regulations on guarding the State's secrets as revised in 2010.

48. **The Committee recommends reviewing the secrecy laws and appropriately revising them so that information on issues and problems regarding the implementation of the Convention — e.g. the number of sterilized women with disabilities or the number of involuntary commitments to institutions — can be publicly discussed. The Committee reminds the State party that this information should be accessible to persons with disabilities.**

National implementation and monitoring (art. 33)

49. The Committee is concerned by the overall absence of independent bodies and organizations of persons with disabilities systematically involved in the process of implementing the Convention. Considering that the China Disabled Persons' Federation remains the sole official representative of persons with disabilities in the State party, the Committee is concerned about the participation of civil society. In addition, the Committee wonders which body or organization in China is designated as the independent national monitoring mechanism as required by article 33, paragraph 2, of the Convention.

50. **The Committee strongly recommends that the State party revise article 8 of the Law on the Protection of Disabled Persons, thus allowing non-governmental organizations other than the China Disabled Persons' Federation to represent the interests of disabled people in the State party and be involved in the monitoring process. It further recommends the establishment of an independent national monitoring mechanism in line with article 33, paragraph 2, of the Convention and in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).**

IV. Hong Kong, China

A. Positive aspects

51. The Committee appreciates the introduction of affirmative measures of action for persons with disabilities in Hong Kong, China, such as the Disability Allowance.

52. The Committee welcomes the awarding of Learning Support Grants, under which schools receive a certain sum for each student with "special educational needs".

B. Principle areas of concern and recommendations

1. General principles and obligations (arts. 1–4)

53. The Committee regrets the outdated eligibility standard in the Disability Allowance Scheme and lack of unity in the various definitions of disability that have been adopted in different pieces of legislation and by Government bureaux and departments.

54. **The Committee encourages Hong Kong, China, to revise the inappropriate eligibility standard and to adopt a definition of persons with disabilities that adequately reflects article 1 and the human rights model of the Convention.**

2. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

55. The Committee is concerned about the rather passive role adopted by the Equal Opportunities Commission, which is responsible for monitoring and executing the Disability Discrimination Ordinance.

56. **The Committee recommends that the Equal Opportunities Commission review its function and assume a more proactive role, especially when handling complaint cases.**

Women with disabilities (art. 6)

57. The Committee is concerned about the discrimination faced by women and girls with disabilities and the lack of action of the government of Hong Kong, China, to reduce the occurrence of discrimination, such as neglecting article 6 in the promotion of the Convention. The Committee is also troubled by the repeated occurrence of domestic violence against women and girls with disabilities.

58. **The Committee recommends that the Women's Commission of Hong Kong, China, should integrate the amelioration of the living situation of women and girls with disabilities into their mandate and include a representative of women with disabilities in its Commission. It also asks Hong Kong, China, to raise awareness of article 6 of the Convention, so as to ensure that women with disabilities enjoy their rights on an equal basis with men. In addition, the Committee calls upon Hong Kong, China, to prevent domestic violence against women with disabilities and to prosecute and punish the perpetrators and all those responsible.**

Children with disabilities (art. 7)

59. While commending the assessment and early education service offered by the government of Hong Kong, China, the Committee is concerned that the services provided are not sufficient to match the overwhelming demand.

60. **The Committee recommends that Hong Kong, China, allocate more resources to the services provided for children with disabilities in order to ensure that they are able to develop to their full potential.**

Accessibility (art. 9)

61. While noting that Hong Kong, China, has improved the barrier-free access of government buildings, leisure and cultural facilities and public housing in recent years, the Committee is concerned that persons with disabilities still face difficulties in terms of accessibility. The Committee especially regrets that the building standards set out in the "Design Manual – Barrier-Free Access" do not apply retroactively and that they are not applicable to premises under the management of the government or the housing authority. The Committee is concerned that the monitoring mechanism to evaluate the accessibility of buildings is insufficient, thus restricting the ability of persons with disabilities to live independently in the community.

62. **The Committee encourages Hong Kong, China, to continue reviewing the "Design Manual – Barrier-Free Access" and apply these standards retroactively to premises under the management of the government or the housing authority as well. It recommends that Hong Kong, China, strengthen the monitoring process of accessibility.**

Right to life (art. 10)

63. The Committee is concerned about the heightened suicide risk among persons with intellectual or psychosocial disabilities (35 per cent of the overall suicide rate in Hong Kong, China).

64. **The Committee calls upon Hong Kong, China, to provide the necessary psychological treatment based on free and informed consent of the person and counselling to these persons. The Committee recommends a regular assessment of their suicide risk.**

Freedom from exploitation, violence and abuse (art. 16)

65. The Committee is concerned about the incidents of women and girls with intellectual disabilities being subjected to sexual violence.

66. **The Committee suggests that Hong Kong, China, continue investigating these incidents and prosecute the perpetrators and all those responsible. It also recommends that sex education be taught to children and adolescents with intellectual disabilities and that the law enforcement personnel be trained on handling violence against women and girls with disabilities.**

67. In addition, while the Committee does not consider shelter workshops as a good way to implement the Convention, it also finds the daily allowance for persons with disabilities in shelter workshops to be too low and bordering on exploitation.

68. **The Committee recommends that Hong Kong, China, enact legislation to raise the daily allowance for persons with disabilities in shelter workshops, so as to prevent their exploitation.**

Right to live independently and live in the community (art. 19)

69. The Committee is concerned about the shortage of subvented residential homes. It is also worried about the lack of premises for District Support Centres, whose aim is to strengthen the ability of persons with disabilities to live at home in their own community and be integrated into society.

70. **The Committee suggests that Hong Kong, China, allocate more resources to setting up more subvented mainstream residential homes and strengthening policies promoting establishment of accessible living facilities to secure the de facto possibility of free choice of accommodation. It calls upon Hong Kong, China, to ensure that the District Support Centres receive the necessary funds and premises in order to enable persons with disabilities to live in the community.**

Freedom of expression and opinion, and access to information (art. 21)

71. The Committee takes note of the difficult situation of persons with hearing impairments in accessing information due to lack of official recognition of the significance of sign language by Hong Kong, China. The Committee is concerned about the lack of training for and services provided by sign-language interpreters.

72. **The Committee recommends that Hong Kong, China, increase training for and the services provided by sign-language interpreters. It should also recognize the public examination and assessment of such interpreters.**

Education (art. 24)

73. While commending the Integrated Education Plan to help students with disabilities study in mainstream schools, the Committee is concerned about its implementation. The Committee worries that the teacher/student ratio is too high and that the training for teachers in special education needs is inadequate. In addition, the Committee is troubled by the low number of students with disability in tertiary education, due to lack of a coherent education policy.

74. **The Committee recommends a review of the effectiveness of the Integrated Educated Plan and the improvement of the teacher/student ratio, as well as the training of teachers in special education needs and reasonable accommodation. The Committee urges Hong Kong, China, to provide sufficient resources to ensure the accessibility in tertiary education.**

Right to health (art. 25)

75. The Committee is troubled by the fact that the demand for public medical services is higher than the supply. The Committee is also concerned by the fact that many insurance companies reject the applications of persons with disabilities, thus leaving them unable to pay their medical fees.

76. **The Committee suggests that Hong Kong, China, allocate more human and financial resources to public medical services and arrange the cooperation of the insurance companies.**

Work and employment (art. 27)

77. The Committee is concerned that the high unemployment rate of persons with disabilities in Hong Kong, China, and that their average salary ranks well below that of persons without disabilities. The Committee is also troubled by the low number of civil servants with disabilities.

78. **The Committee recommends that Hong Kong, China, introduce affirmative actions to promote the employment of persons with disabilities, inter alia, to prioritize the employment of persons with disabilities as civil servants.**

Adequate standard of living and social protection (art. 28)

79. The Committee is concerned about the family-based assessment for application and eligibility to receive the Comprehensive Social Security Assistance. In addition, the Committee is worried about the different standards employed by doctors in approving the disability allowance.

80. **The Committee suggests that Hong Kong, China, replace the family-based assessment with an individual-based assessment in order to determine the eligibility to receive the Comprehensive Social Security Assistance. The Committee also recommends that Hong Kong, China, introduce uniform standards for approving the disability allowance.**

Participation in political and public life (art. 29)

81. The Committee is concerned about the low number of persons with disabilities holding public offices and the inaccessibility of some polling stations for voters with disabilities.

82. **The Committee urges Hong Kong, China, to enhance the active participation of persons with disabilities in politics through affirmative action and ensure the accessibility of all voting stations.**

3. Specific obligations (arts. 31–33)

National implementation and monitoring (art. 33)

83. The Committee is worried by the low rank of the focal point, the Commissioner for Rehabilitation, and the lack of an independent monitoring mechanism according to article 33, paragraph 2.

84. **The Committee recommends that Hong Kong, China, strengthen the authority of the Commissioner for Rehabilitation and set up an independent monitoring mechanism that involves the active participation of persons with disabilities and their representative organizations.**

V. Macao, China

A. Positive aspects

85. The Committee welcomes the establishment of the Commission against Corruption, which has ombudsman functions for the rights of persons with disabilities.

86. The Committee appreciates that persons with disabilities in Macao, China, are able to receive several subsidies as social protection.

87. The Committee commends article 5 (f) of Decree-Law 33/99/M, which stipulates the mandatory information of persons with disabilities of their rights and the existing structures assigned to provide them assistance.

B. Principle areas of concern and recommendations

1. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

88. The Committee is concerned about the existence of de facto inequality in Macao, China.

89. **The Committee recommends that Macao, China, continue its efforts to ensure equality for persons with disabilities, so as to ensure the implementation of the spirit of the Convention.**

Freedom from exploitation, violence and abuse (art. 16)

90. The Committee is concerned about the heightened risk of violence against women and girls with disabilities becoming victims of domestic violence and abuse.

91. **The Committee recommends that services and information are made accessible to these victims. It specifically encourages Macao, China, to set up a complaint mechanism and conduct mandatory training for the police force on this issue.**

Right to live independently and live in the community (art. 19)

92. The Committee is concerned that the right to live independently and in the community has not yet been fully achieved in Macao, China.

93. **The Committee urges Macao, China, to prioritize the implementation of this right and shift from institutionalization to in-home or residential living, as well as provide other community support services.**

Education (art. 24)

94. The Committee is concerned that the number of students with special educational needs in a non-inclusive environment is higher than that in an inclusive one. The Committee is also troubled by the low number of students with disabilities attending tertiary education.

95. **The Committee wishes to remind Macao, China, that the concept of inclusive education is essential to the implementation of article 24 and should be the rule rather than an exception. The Committee calls upon Macao, China, to continue making tertiary education more accessible to students with disabilities.**

Work and employment (art. 27)

96. The Committee is concerned that employees with disabilities only account for 0.3 per cent of the total employed population.

97. **The Committee recommends Macao, China, to introduce more affirmative action to enable persons with disabilities to find employment.**

VI. Follow-up and dissemination

98. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. The Committee recommends that the State party transmit them for consideration and action to members of the Government and the National People's Congress, officials in the relevant ministries, members of relevant professional groups, such as education, medical and legal

professionals, as well as local authorities and the media, using modern accessible social communication strategies.

99. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its second periodic report.

100. The Committee requests the State party to disseminate these concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in accessible formats.

101. The Committee requests that the State party to submit within 12 months information, in writing, on the measures adopted in order to meet the recommendations set out in paragraphs 20 and 50.

VII. Next report

102. The Committee requests the State party to submit its second periodic report by no later than 1 September 2014, and to include therein information on the implementation of the present concluding observations.

China, corrigendum (CRPD/C/CHN/CO/1/Corr.1)

1. **Paragraph 69, first sentence**

For shortage on sublet residential homes *read* shortage of subvented residential homes

2. **Paragraph 70, first sentence**

For sublet *read* subvented

Hungary (CRPD/C/HUN/CO/1)

1. The Committee considered the initial report of Hungary (CRPD/C/HUN/1) at its 81st and 82nd meetings, held on 20 and 21 September 2012, and adopted the following concluding observations at its 90th and 91st meetings, held on 26 and 27 September 2012.

I. Introduction

2. The Committee welcomes the initial report of Hungary, which was one of the first States to submit its initial report to the Committee. The Committee commends the State party for the written replies to the list of issues raised by the Committee (CRPD/C/HUN/Q/1/Add.1) and for the comprehensive responses to the questions posed during the dialogue.

3. The Committee commends the State party for its delegation, which included representatives of various Government ministries, including many senior representatives, as well as one person with a disability who is a senior civil servant among its members. The Committee expresses its appreciation for the spirited and fruitful dialogue held between the delegation and the members of the Committee.

II. Positive aspects

4. The Committee welcomes the State party's support for the promotion and implementation of the Convention at the global and regional levels, including through its support for the Bureau of the Conference of the State Parties and to other United Nations mechanisms in support of the effective implementation of the Convention.

5. The Committee congratulates the State party for including the explicit prohibition of disability-based discrimination in its Fundamental Law.

6. The Committee notes with satisfaction the adoption of the National Programme of Disability Affairs (2007–2013) and the Governmental Resolution 1062/2007.(VIII.7.) on the medium-term action plan of the programme for the period 2007–2010, and the mainstreaming of disability in a number of other government policies.

7. The Committee welcomes the State party's publication of the Convention in the Hungarian Gazette in Braille print, sign language and an easy-to-read format.

8. The Committee commends the State party's adoption of Act CXXV of 2009 on Hungarian Sign Language and the use of Hungarian Sign Language.

9. The Committee notes with appreciation the use of regional European Union funds by the State party to provide training in accessibility for relevant professionals and in higher education.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

10. The Committee notes with concern that definitions of disability and persons with disabilities in the State party's legislation focus on the impairments of an individual rather than on the barriers he/she faces. The Committee expresses its concern that such definitions fail to encompass all persons with disabilities, including those with psychosocial disabilities.

11. The Committee notes with appreciation that Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities was drafted to promote the rights of persons with disabilities in the State party. The Committee expresses concern, however, over the fact that the Act has not been reviewed since the adoption by the State party of the Convention, with a view to aligning it with the provisions of the Convention.

12. **The Committee recommends that the State party use the upcoming review of Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities to: ensure that it is in full compliance with the Convention and reflects the human rights-based approach to disability as embodied in the Convention; and to incorporate an inclusive definition of disability and persons with disabilities that is firmly rooted in the human rights-based approach to disability and encompasses all persons with disabilities, including those with psychosocial disabilities.**

13. The Committee regrets the insufficient participation of persons with disabilities and their representative organizations in the review and design of disability-related legislation and policies, as well as in other policy and decision-making processes, in line with their obligation under article 4, paragraph 3, of the Convention. The Committee further regrets the fact that representative organizations of persons with disabilities from Hungary did not participate in the constructive dialogue with the Committee.

14. **The Committee recommends that the State party take effective measures to consult with and actively involve persons with disabilities, including children and women with disabilities, through their representative organizations, in the planning, execution and monitoring of public decision-making processes at all levels and in particular in the matters affecting them, giving them reasonable and realistic timelines for providing their views, and providing them with adequate funding in order to enable them to fulfil their role under article 4, paragraph 3, of the Convention.**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

15. The Committee notes with concern that the State party's legislation, including Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities and Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities, fails to state that denial of reasonable accommodation constitutes discrimination.

16. **The Committee calls upon the State party to take steps to ensure that its legislation explicitly prescribes that failure to provide reasonable accommodation constitutes a prohibited act of discrimination.**

17. The Committee notes with concern that the Act on the protection of the life of the foetus "makes abortive treatment possible for a wider circle than in general for the [foetuses] deemed to have health damage or some disability" (CRPD/C/HUN/1, para. 71), thereby discriminating on the basis of disability.

18. **The Committee recommends that the State party abolish the distinction made in the Act on the protection of the life of the foetus in the period allowed under law within which a pregnancy can be terminated, based solely on disability.**

Women with disabilities (art. 6)

19. The Committee takes note that the State party's Government Decree No. 1004/2010 (I.21.) on the National Strategy Promoting the Social Equality of Women and Men "treats the implementation of measures promoting the equality of women and specifically the equality of women with disabilities in their full integrity" (CRPD/C/HUN/Q/1/Add.1, para. 117). However, the Committee regrets the lack of specific action aimed at promoting the equality of women and girls with disabilities in the Strategy.

20. **The Committee calls upon the State party to adopt effective and specific measures to ensure equality and prevent multiple forms of discrimination of women and girls with disabilities in its policies, and to mainstream a gender perspective in its disability-related legislation and policies.**

Children with disabilities (art. 7)

21. The Committee takes note of the State party's expression of dedication to protect and promote the rights of children with disabilities. However, the Committee is concerned about the large number of children living in institutional settings and about the fact that many children with disabilities receive institutional rather than home care. It stresses the importance of allocating sufficient resources to enable children with disabilities to continue living with their families in their own communities.

22. **The Committee calls upon the State party to undertake greater efforts to make available the necessary professional and financial resources, especially at the local level, to promote and expand community-based rehabilitation and other services in their respective local communities to children with disabilities and their families, in order to enable children with disabilities to live with their families, as recommended by the Committee on the Rights of the Child (CRC/C/HUN/CO/2).**

Accessibility (art. 9)

23. The Committee notes with appreciation that the State party has set deadlines for fulfilling the provisions of the law for accessibility of public services rendered by the State (31 December 2010), the accessibility of educational, health and social services as well as that of municipality client services (31 December 2008, 2009 and 2010 respectively) and allocated considerable funds for the removal of barriers by 2011, 2012 and 2013. However, the Committee is concerned that the above-mentioned deadlines have not been fully met

and that there are initiatives to postpone them further. The Committee is also concerned about the financial challenges faced by the authorities charged with monitoring the implementation of the accessibility legislation.

24. **The Committee calls upon the State party to undertake efforts to meet the deadlines for removal of accessibility barriers set in its own legislation and policies, without any postponement of the set deadlines. The Committee calls upon the State party to additionally strengthen the monitoring mechanisms in order to ensure accessibility and to continue providing sufficient funds for the removal of accessibility barriers and the continued training of relevant monitoring staff.**

Equal recognition before the law (art. 12)

25. The Committee takes note of the fact that the State party is undertaking efforts to harmonize its national legislation with the provisions of article 12 of the Convention. It welcomes the plans to provide for supported decision-making in the drafting of the new Civil Code. However, the Committee remains concerned about the possibility of maintaining a modified regime of substitute decision-making in the drafting of the new Civil Code. The Committee is also concerned that the process of drafting of the new Civil Code has not been used to provide for a detailed and viable framework for supported decision-making in the exercise of legal capacity in accordance with the provisions of article 12 of the Convention.

26. **The Committee recommends that the State party use effectively the current review process of its Civil Code and related laws to take immediate steps to derogate guardianship in order to move from substitute decision-making to supported decision-making which respects the person's autonomy, will and preferences and is in full conformity with article 12 of the Convention, including with respect to the individual's right, in his/her own capacity, to give and withdraw informed consent for medical treatment, to access justice, to vote, to marry, to work and to choose a place of residence. The Committee further recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on mechanisms of supported decision-making.**

Liberty and security of the person (art. 14)

27. The Committee notes with appreciation that the State party is committed to undertaking measures to provide reasonable accommodation to persons with disabilities who are deprived of their liberty. It also notes with appreciation that "[p]ersonal liberty is assured by making use of the services voluntarily" (CRPD/C/HUN/1, para. 87). However, the Committee is concerned about the situation faced by persons under guardianship, where a decision on institutional care is made by the guardian rather than the person him/herself, and guardians are authorized to give consent to mental health care services on behalf of their ward. The Committee further regrets that disability, in some cases, can be the ground for detention.

28. **The Committee recommends that the State party review provisions in legislation that allow for the deprivation of liberty on the basis of disability, including mental, psychosocial or intellectual disabilities, and adopt measures to ensure that health care services, including all mental health care services, are based on the free and informed consent of the person concerned.**

Freedom of torture or cruel, inhuman or degrading treatment or punishment (art. 15)

29. The Committee is concerned that Act CLIV of 1997 on Healthcare provides for a legal framework for subjecting persons with disabilities whose legal capacity is restricted to

medical experimentation without their free and informed consent, as consent may be given by their legal guardians. The Committee also notes with concern that there is no independent medical examination body mandated to examine alleged victims of torture and guarantee respect for human dignity during the conduct of medical examinations, as stated by the Human Rights Committee (CCPR/C/HUN/CO/5, para. 14).

30. **The Committee urges the State party to amend Act CLIV on Healthcare and abolish the provisions thereof that provide for a legal framework for subjecting persons with disabilities with restricted legal capacity to medical experimentation without their free and informed consent. The Committee recommends that the State party implement the recommendation made by the Human Rights Committee in 2010 (CCPR/C/HUN/CO/5, para. 14) to establish "an independent medical examination body mandated to examine alleged victims of torture and guarantee respect for human dignity during the conduct of medical examinations".**

Freedom from exploitation, violence and abuse (art. 16)

31. The Committee appreciates that the State party has taken measures to provide some specific disability-related provisions in its legislation and policies for prevention of exploitation, violence and abuse. However, it is concerned that women, men, girls and boys with disabilities continue to face violence, abuse and exploitation.

32. **The Committee recommends that the State party take effective measures to ensure protection of women, men, girls and boys with disabilities from exploitation, violence and abuse, in accordance with the Convention, inter alia, the establishment of protocols for the early detection of violence, above all in institutional settings, procedural accommodation to gather testimonies of victims, and prosecution of those persons responsible, as well as redress for victims. It also recommends that the State party ensure that protection services are age-, gender- and disability-sensitive and accessible.**

Living independently and being included in the community (art. 19)

33. The Committee takes note that the State party has recognized the need for the replacement of large social institutions for persons with disabilities in community-based settings (deinstitutionalization). The Committee, however, notes with concern that the State party has set a 30-year time frame for its plan for deinstitutionalization. It is furthermore concerned that the State party has dedicated disproportionally large resources, including regional European Union funds, to the reconstruction of large institutions, which will lead to continued segregation, in comparison with the resources allocated for setting up community-based support service networks. The Committee is concerned that the State party fails to provide sufficient and adequate support services in local communities to enable persons with disabilities to live independently outside a residential institutional setting.

34. **The Committee calls upon the State party to ensure that an adequate level of funding is made available to effectively enable persons with disabilities to: enjoy the freedom to choose their residence on an equal basis with others; access a full range of in-home, residential and other community services for daily life, including personal assistance; and enjoy reasonable accommodation with a view to supporting their inclusion in their local communities.**

35. **The Committee further calls upon the State party to re-examine the allocation of funds, including the regional funds obtained from the European Union, dedicated to the provision of support services for persons with disabilities and the structure and functioning of small community living centres, and to ensure full compliance with the provisions of article 19 of the Convention.**

Respect for home and the family (art. 23)

36. The Committee notes with concern that persons with disabilities still face various financial, physical and attitudinal barriers to founding a family and that scarcity of the support services for independent living (see paragraphs 34 and 35 above), presents a de facto barrier to the full and effective enjoyment of the rights set out in article 23 of the Convention.

37. **The Committee calls upon the State party to take appropriate measures to enable men and women with disabilities who are of marriageable age to marry and found a family, as well as to provide adequate support services to men and women, boys and girls with disabilities to enable them to live with their families, in order to prevent or reduce the risk of placement in an institution.**

38. **The Committee calls upon the State party to take appropriate and urgent measures to protect persons with disabilities from forced sterilization.**

Education (art. 24)

39. The Committee notes with appreciation that students with disabilities have the opportunity to study using sign language and the Braille system. It also notes that training in those subjects is provided to teachers. However, the Committee regrets that many students with disabilities continue to attend special educational institutions. It furthermore notes with concern that the State party has not taken sufficient steps to provide reasonable accommodation to all students with disabilities in mainstream educational facilities and to develop and promote an inclusive education system as defined by the Convention.

40. The Committee is further concerned by the lack of social programmes aimed at ensuring the access of Roma children with disabilities to mainstream education and by the lack of adequate consultation with them and their parents with a view to deciding what kind of support is needed to satisfy their right to education.

41. **The Committee calls upon the State party to allocate sufficient resources for the development of an inclusive education system for children with disabilities. It reiterates that denial of reasonable accommodation constitutes discrimination, and recommends that the State party significantly increase its efforts to: provide reasonable accommodation to children with disabilities based on the student's individual requirements; provide students with disabilities with the required support within the general education system; and continue training teachers and all other educational staff to enable them to work in inclusive educational settings.**

42. **The Committee urges the State party to develop programmes to ensure that Roma children with disabilities are included in mainstream education programmes, without disregarding the provision of reasonable accommodation that might be needed to obtain the desired outcome.**

Right to work (art. 27)

43. The Committee notes with appreciation that the State party has taken a number of steps to promote the right to work of persons with disabilities, including through the inclusion of a provision on reasonable accommodation for persons with disabilities in the 2012 Labour Code (Law 1/2012). The Committee regrets, however, that the overall employment rate of persons with disabilities remains lower than for other population groups despite such efforts.

44. **The Committee recommends that the State party effectively implement the disability-specific provisions of the Labour Code and develop programmes to integrate persons with disabilities into the open labour market and the education and professional training systems, and to make all work places and educational and**

professional training institutions accessible for persons with disabilities, as recommended by the Committee on Economic, Social and Cultural Rights in 2008 (E/C.12/HUN/CO/3, para. 35), by fulfilling the requirements of article 27 of the Convention, with a special view to further intensifying its efforts to increase the employment opportunities for women and men with disabilities in the public and private sectors.

Participation in political and public life (art. 29)

45. The Committee is very concerned about the provision in the State party's new Fundamental Law which permits a judge to remove the right to vote from those with "limited mental ability", and that legislation allows for the right to vote of persons with intellectual or psychosocial disabilities to be restricted if the person concerned has been deprived of his or her legal capacity.

46. **The Committee recommends that all relevant legislation be reviewed to ensure that all persons with disabilities regardless of their impairment, legal status or place of residence have a right to vote, and that they can participate in political and public life on an equal basis with others.**

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

47. The Committee regrets the low level of disaggregated data on persons with disabilities. It notes that the State party has included information on disability in its two last censuses. It regrets, however, that the preliminary data from the 2011 census, released in April 2012, did not include any indication on disability-related statistics.

48. The Committee is concerned about the lack of information regarding Roma children with disabilities. It is further concerned by the understanding of the State party of the way in which confidentiality and privacy towards children with disabilities should be considered.

49. **The Committee recommends that the State party systematize the collection, analysis and dissemination of data, disaggregated by sex, age and disability; enhance capacity-building in this regard; and develop gender- and age-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring and reporting on progress made with regard to the implementation of the various provisions of the Convention, taking into consideration the changes from the medical to the human rights-based approach to disability.**

50. **The Committee recommends that the State party develop an appropriate data-collection system to understand the nature and characteristics of Roma persons with disabilities in general and children in particular.**

National implementation and monitoring (art. 33)

51. In spite of the efforts the State party has made to put in place a monitoring mechanism for implementation of the Convention, the Committee is concerned that the National Disability Council, which has been designated to function as an independent monitoring mechanism, is not in compliance with the Principles relating to the Status of National Institutions (Paris Principles) and, hence, not in line with article 33, paragraph 2, of the Convention.

52. **The Committee calls upon the State party to set up an independent monitoring mechanism in accordance with the Paris Principles and article 33, paragraph 2, of the Convention, and to ensure the full participation of civil society, especially organizations of persons with disabilities, in the monitoring process and framework.**

Follow-up and dissemination

53. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. The Committee recommends that the State party transmit them for consideration and action to members of the Government and Parliament, officials in the relevant ministries, members of the judiciary and of relevant professional groups, such as education, medical and legal professionals, as well as local authorities and the media, using modern social communication strategies.

54. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its second periodic report.

55. The Committee requests the State party to disseminate these concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in accessible formats.

56. The Committee requests that the State party submit within 12 months information in writing on the measures adopted in order to meet the recommendations set out in paragraphs 26 and 46.

Next report

57. The Committee requests the State party to submit its second periodic report no later than August 2014, and to include therein information on the implementation of the present concluding observations.

Annex III

Comments from the Government of China on the concluding observations of the Committee (CRPD/C/CHN/CO/1)

I. Comments from the Government of China

1. The Government of China has always attached great importance to expanding work on disability, and actively promotes and diligently implements the Convention on the Rights of Persons with Disabilities (hereafter referred to as "the Convention"). The notable, continuous improvement in the situation of persons with disabilities in China amply illustrates the Government's clear political will and tireless efforts to promote, protect and give effect to the rights and interests of persons with disabilities.

2. When, meeting in Geneva in September 2012, the Committee on the Rights of Persons with Disabilities (hereafter referred to as the "Committee") considered the report of China on its implementation of the Convention, the Chinese delegation entered into dialogue and discussion with a frank, open and responsible attitude and answered the Committee's questions by providing detailed, accurate data and factual information. The dialogue was highly effective and constructive and helped to promote understanding and trust between the two parties. The Chinese Government wishes to maintain positive interaction and communication with the Committee and further promote the effective implementation of the Convention in China and throughout the world.

3. The Chinese Government appreciates the Committee members' dedication to their work and thanks them for the pertinent recommendations put forward in the concluding observations. The Government's aim to promote and protect the rights and interests of persons with disabilities is fully consistent with the spirit of the Convention. Paragraphs 18, 20, 30 and 44 of the concluding observations, which contain recommendations on strengthening barrier-free infrastructure in rural areas, closing the gap between the benefits available to persons with disabilities in urban compared with rural areas, and combating and preventing the abduction and enslavement of persons with intellectual disabilities, closely mirror the aims of the next phase of work on disability in China.

4. Owing however, to a variety of factors, including inadequate communication and cultural differences, the Committee did not gain a full understanding of some of the Government's policies and action regarding persons and disabilities, and there have even been definite misunderstandings; we would like to briefly clarify these issues.

5. Paragraph 33 of the concluding observations states that "both the State party's laws and its society accept the practice of forced sterilization and forced abortion on women with disabilities without free and informed consent". In reality, the Population and Family Planning Act clearly states: "The State shall create conditions to ensure that individual citizens knowingly choose safe, effective, and appropriate contraceptive methods." The Regulations on Administration of Technical Services for Family Planning state that "citizens have the right to know about and choose contraceptive methods. The State guarantees citizens' right to have access to appropriate technical services for family planning ... The institution engaged in family planning technical services shall, when performing a contraceptive or birth control surgery, a special examination or a special treatment, obtain the personal consent of the recipient and guarantee the recipient's safety." These provisions clearly indicate that forced sterilization and forced abortion are explicitly prohibited under Chinese law. The Population and Family Planning Act sets out

punishments for those who violate these provisions, namely that any State official who, in the performance of family planning work, infringes on a citizen's personal rights, property rights or other legitimate rights and interests, shall be issued an administrative sanction in accordance with the law, and if the official's conduct amounts to a crime then he or she shall be investigated for criminal liability in accordance with the law. In practice, the State does indeed punish, in accordance with the law, forced sterilization and forced abortion illegally performed on women with disabilities.

6. Paragraph 22 of the concluding observations refers to the legal capacity of persons with disabilities and guardianship. Under Chinese law, in order to protect the legal rights in criminal and civil affairs of persons with psychosocial or intellectual disabilities, their capacity to act and their guardians are subject to rigorous legal procedural determination by the courts and any guardian who infringes the rights of a person under guardianship is liable to criminal prosecution. The Committee's recommendations on that issue will be reported to the Chinese legislature.

7. Paragraphs 26, 28, 38 and 40 of the concluding observations refer to the "informed consent" of persons with disabilities who receive rehabilitation services. The Regulations on the Prevention of Disability and Rehabilitation of Persons with Disabilities currently being drafted by the Government clearly state that "rehabilitation services should respect the wishes of persons with disabilities and those of their families and friends". At present, before rehabilitation services can be provided, all relevant information must be made available to the affected persons with disabilities and their families, and it must be verified that the persons with disabilities themselves have submitted and signed the application for rehabilitation, so as to ensure their informed consent. The Mental Health Act promulgated on 26 October 2012 clearly stipulates the conditions under which involuntary hospitalization and medical treatment may be appropriate, namely, that a patient suffering from psychosocial disabilities may be involuntarily hospitalized only if they are not aware of or cannot control their own behaviour and if they pose a danger to themselves, to public safety, to the personal safety of others or to public order. The Act strictly regulates the procedures for involuntary hospitalization or medical treatment, provides ample means by which the persons concerned and their guardians may object to such measures, establishes mechanisms for correcting errors in admissions after the fact, and establishes that anyone who illegally carries out an involuntary hospitalization or medical treatment is to be held criminally liable.

8. Paragraphs 10 and 50 of the concluding observations recommend strengthening the role of organizations of persons with disabilities in the implementation of the Convention. The Chinese Government has always valued the important role played by civil organizations of persons with disabilities. Local governments at all levels are working in cooperation with civil organizations of persons with disabilities to provide services for those persons, for example through services purchased with public funds, subsidies, premises made available free of charge and training opportunities. Organizations of persons with disabilities and their representatives enjoy the same civil and political rights as other citizens. They may participate in the administration and discussion of State affairs, draw attention to the demands of persons with disabilities, participate in the drafting of policies and be involved in monitoring the implementation of those policies. During the drafting of its initial report on the implementation of the Convention, the Chinese Government sought input from many persons with disabilities and organizations of persons with disabilities. In future implementation efforts and while drafting the second periodic report, the Government will continue to cooperate closely with organizations of persons with disabilities.

9. From an anti-discrimination and social integration point of view, there is no conflict at all between the recommendations made in paragraphs 36, 41 and 42 of the concluding

observations and the basic aims of the Government's work on disability. These aims must be implemented gradually, however, in accordance with the country's overall socioeconomic advancement. As regards special education, for example, the Chinese Government is rapidly developing inclusive education. However, given that currently education resources are still in very short supply, especially in rural and impoverished remote areas, special education must remain in place in order to ensure that as many children with disabilities as possible are able to attend school. The Committee has questioned whether the employment by quota policy can effectively address the problem of unemployment among persons with disabilities. This policy draws on the practice followed in developed countries. It was established with a view to providing more employment opportunities for persons with disabilities and encouraging employers to take on obligations in that regard. Since it was introduced it has shown extremely positive results. We are also aware of problems with the implementation of the policy and will take appropriate measures to make it more effective. In addition to the employment by quota policy, Chinese laws and related policies clearly set out many other kinds of measures to promote employment for persons with disabilities, such as concentrated employment and self-employment.

10. In recent decades, China has made great strides in promoting and protecting human rights and improving the living conditions of persons with disabilities, and it has been consistently active in its implementation of the Convention. However, it has the largest population of persons with disabilities of any developing country, and work on disability must be conducted in accordance with the country's level of socioeconomic development. The implementation of the Convention is a long-term process. The Chinese Government steadfastly protects the rights and interests of persons with disabilities, and that position will not change. We are willing to further strengthen our interchanges and cooperation with the international community on the basis of equality and mutual respect.

11. The Chinese Government will provide information on the specific follow-up given to the reasonable, workable recommendations made in the concluding observations when the Committee considers its next periodic report.

II. Response from the Government of the Hong Kong Special Administrative Region

A. Introduction

12. The Government of the Hong Kong Special Administrative Region welcomes the Committee's concluding observations on the initial report on the implementation of the Convention in the Hong Kong Special Administrative Region. It wishes to thank the Committee for the constructive dialogue during the consideration of its report and for the recommendations made in the concluding observations.

13. The Government is committed to fulfilling its obligation to implement the Covenant, and it will continue to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. The authorities, in conjunction with the relevant government bureaux and departments, are carefully considering the concluding observations and developing appropriate follow-up action. The Government will continue to maintain close cooperation with the Rehabilitation Advisory Committee, the Equal Opportunities Commission, organizations of persons with disabilities, the rehabilitation sector and various other sectors of society, with a view to creating a caring, inclusive and equitable society.

14. This document sets out the preliminary views of the Government on each of the Committee's recommendations. In accordance with the request made in the concluding observations, the Government will, on or before 1 September 2014, submit its second periodic report on the implementation of the Convention, providing a detailed response to the Committee's concluding observations. That report will form part of the report of China.

B. General principles and obligations (paras. 53 and 54)

> "The Committee regrets the outdated eligibility standard in the Disability Allowance Scheme and lack of unity in the various definitions of disability that have been adopted in different pieces of legislation and by Government bureaux and departments. The Committee encourages Hong Kong, China, to revise the inappropriate eligibility standard and to adopt a definition of persons with disabilities that adequately reflects article 1 and the human rights model of the Convention."

15. The Disability Allowance is a cash allowance paid out monthly under the Social Security Allowance Scheme and is designed to help residents of Hong Kong, China with serious disabilities to meet the special needs arising from those disabilities. Because it is not contributory or means-tested, in order to ensure the proper use of public funds recipients must meet relatively strict requirements and undergo a medical evaluation to certify that they suffer from serious disabilities. For the purpose of the Disability Allowance Scheme, applicants are considered to have serious disabilities if they have been certified by a public medical officer as being in a position broadly equivalent to that of a person with a 100 per cent loss of earnings capacity according to the criteria set out in the First Schedule of the Employees' Compensation Ordinance (chap. 282).

16. The Disability Allowance is not intended to cover all the living expenses of persons receiving benefits. Persons with disabilities who cannot financially support themselves may apply for the means-tested Comprehensive Social Security Assistance Scheme. The Scheme is designed to provide financial support to families in need so that they can meet their basic needs. It takes into account the special needs of persons with disabilities by providing them with comparatively large monetary subsidies. Persons with disabilities applying for Comprehensive Social Security Assistance may, on the basis of an evaluation by a public medical officer, qualify to receive standard payments for the seriousness of their disability, and, depending on their circumstances, appropriate funds in the form of special allowances and grants. Beneficiaries with different types of disabilities may receive Comprehensive Social Security Assistance irrespective of their sex. In accordance with the broad definition of persons with disabilities set out in article 1 of the Convention, persons with disabilities who benefit from Comprehensive Social Security Assistance or the Disability Allowance may have long-term physical, psychological, intellectual, visual, hearing or organ impairments.

17. The Government of the Hong Kong Special Administrative Region has recently completed a review of the implementation mechanisms for the Disability Allowance Scheme and will be introducing measures to improve them (see paragraph 81 below). The authorities are conducting a review of the Disability Allowance Scheme at the policy level, including the relevant application requirements, and during that review they will give consideration to factors such as changing circumstances and public expectations.

18. With regard to the definitions of disability given in different pieces of legislation and service programmes, government bureaux and departments, when developing policies and services relating to persons with disabilities, generally refer to the definition set out in the Rehabilitation Programme Plan, which is more or less consistent with the definition contained in article 1 of the Convention. Nevertheless, given that persons with different

types and degrees of disability need different kinds of services, government bureaux and departments need to differentiate between different groups of beneficiaries when developing policies and service programmes, so as to provide appropriate assistance that targets people's needs.

C. Equality and non-discrimination (paras. 55 and 56)

> "The Committee is concerned about the rather passive role adopted by the Equal Opportunities Commission, which is responsible for monitoring and executing the Disability Discrimination Ordinance. The Committee recommends that the Equal Opportunities Commission review its role and assume a more proactive part, especially when handling complaint cases."

19. We take note of the Committee's view and wish to clarify that, in addition to handling complaints as provided for in chapter 487 of the Disability Discrimination Ordinance, the Equal Opportunities Commission can also proactively and regularly conduct investigations on its own initiative. Between 20 September 1996 and 30 September 2012, about 12 per cent of the investigations conducted under the Disability Discrimination Ordinance were initiated by the Commission of its own accord. The Commission also takes a proactive role in promoting the rights of persons with disabilities in various spheres. For example, in 2006 it conducted a survey on its own initiative of the situation with regard to barrier-free access to publicly owned or managed premises and facilities, as a result of which the Government of the Hong Kong Special Administrative Region introduced a programme of comprehensive upgrading projects, making improvements to barrier-free facilities at 3,500 government sites and 240 Housing Authority properties. Since 1999 the Equal Opportunities Commission has always actively participated in the large-scale awareness-raising activities organized during "Mental Health Month", working together with the Government and stakeholders to promote mental health in communities. In 2009 it commissioned a consultant to conduct a study on equal learning opportunities for students with disabilities under the inclusive education system.

D. Women with disabilities (paras. 57 and 58)

> "The Committee is concerned about the discrimination faced by women and girls with disabilities and the lack of action of the Government of Hong Kong, China, to reduce the occurrence of discrimination, such as neglecting article 6 in the promotion of the Convention. The Committee is also troubled by the repeated occurrence of domestic violence against women and girls with disabilities. The Committee recommends that the Women's Commission of Hong Kong, China, should integrate the amelioration of the living situation of women and girls with disabilities into their mandate and include a representative of women with disabilities in its Commission. It also asks Hong Kong, China, to raise awareness on article 6 of the Convention, so as to ensure that women with disabilities enjoy their rights on an equal basis with men. In addition, the Committee calls upon Hong Kong, China, to prevent domestic violence against women with disabilities and to prosecute and punish the perpetrators and all those responsible."

20. Since 2002, the Government of the Hong Kong Special Administrative Region has been promoting gender mainstreaming to ensure that it fully considers the needs and viewpoints of both sexes when drafting laws, policies and programmes so that men and women can secure and benefit from resources and opportunities on an equal footing, ultimately resulting in gender equality.

21. In 2001 the Government established the Women's Commission as a central institution to promote the welfare, rights and interests of women in Hong Kong, China, irrespective of their physical or mental condition. Since its establishment, the Women's Commission has met regularly with local women's groups (including groups concerned with the rights and interests of women with disabilities) and relevant NGOs, and from time to time its members attend regional and international conferences in order to keep abreast of new developments in the needs of and issues affecting various groups of women, including women with disabilities. When making appointments to the Women's Commission, the Government gives due consideration to candidates' abilities, special skills, experience, personal integrity and devotion to community service, scrupulously upholding the fundamental principle of appointment by merit, and proactively considers suitable women with disabilities for positions on the Commission.

22. The Hong Kong Special Administrative Region strives to protect persons with disabilities (in particular women and children with disabilities) from all forms of exploitation, violence and abuse, both within and outside the home, through legislative, administrative, social and educational measures. The Social Welfare Department has formed a special working group to draft procedural guidelines to be used by professionals when handling abuse cases involving adults with intellectual or psychosocial disabilities. The guidelines aim to, inter alia, improve the identification of risk factors, prevent abuse, strengthen interdisciplinary cooperation, and establish procedures for professionals in various fields to intervene and report cases of abuse, so as to safeguard the welfare of persons with intellectual or psychosocial disabilities. With regard to children, the authorities have also drafted the Procedural Guide for Handling Child Abuse Cases, which can be used as a reference by professionals and staff in various sectors when dealing with child abuse cases.

23. In addition, every year the Social Welfare Department conducts publicity and public awareness-raising campaigns to inform the public about the importance of family cohesion and preventing domestic abuse and to encourage victims to seek help as soon as possible. Furthermore, the Social Welfare Department and NGOs provide all manner of necessary services for victims of domestic violence and their families, including short-term accommodation and emotional support services, irrespective of their health, age, sex, sexual orientation or race. The Support Programme for Victims of Family Violence, introduced in June 2010, further strengthens support for victims of domestic violence by providing them with information, emotional support and companionship.

24. With regard to punishment for perpetrators, the Hong Kong Police Force handles all reports of abuse professionally and conducts thorough investigations in accordance with the circumstances of each case. If there is sufficient evidence that an offence has been committed, the police will take firm and decisive action to arrest and prosecute the offender.

E. Children with disabilities (paras. 59 and 60)

> "While commending the assessment and early education service offered by the government of Hong Kong, China, the Committee is concerned that the services provided are not sufficient to match the overwhelming demand. The Committee recommends that Hong Kong, China, allocate more resources to the services provided for children with disabilities in order to ensure that they are able to develop to their full potential."

25. Through preschool rehabilitation services, consistent efforts have been made to provide early intervention services for children with disabilities from birth to 6 years of age, so as to support their physical and mental development and enhance their social skills,

thereby increasing their opportunities to attend mainstream schools and participate in day-to-day activities, and to help their families cope with their special needs.

26. Children with developmental and behavioural disabilities are first evaluated by the Department of Health Child Assessment Centres and, if necessary, are referred to the Hospital Authority for further diagnosis and treatment. At present, most of the children who require follow-up by the Hospital Authority suffer from autism or attention deficit hyperactivity disorder. In the fiscal year 2011/12 the Hospital Authority expanded its team of specialists to include more than 40 additional doctors, nurses and allied health professionals to follow up on these cases. It is estimated that this measure will benefit an additional 3,000 children per year.

27. In recent years, preschool rehabilitation services have been steadily increasing. In the past five years (from 2007/08 to 2011/12), the Government of the Hong Kong Special Administrative Region has allocated additional resources, adding 1,393 extra subsidized places in preschool services, which represents an increase of 26 per cent. Over the next two years a total of 607 additional places will be made available, representing approximately 11 per cent of the total number of children waiting to receive these services. In addition, since December 2011 projects have been launched under the Community Care Fund to provide financial assistance to eligible children who are on the waiting list for subsidized preschool rehabilitation services, so that they may receive training services and treatment from specialized childcare workers, psychologists, occupational therapists, physical therapists and speech therapists. Moreover, the Social Welfare Department is currently reviewing the methods used to provide preschool rehabilitation services and is looking for ways to further optimize those services.

F. Accessibility (paras. 61 and 62)

> "While noting that Hong Kong, China, has improved the barrier-free access of government buildings, leisure and cultural facilities and public housings in recent years, the Committee is concerned that persons with disabilities still face difficulties in terms of accessibility. The Committee especially regrets that the building standards set out in the 'Design Manual – Barrier-Free Access' do not apply retroactively and that they are not applicable to premises under the management of the government or the housing authority. The Committee is concerned that the monitoring mechanism to evaluate the accessibility of buildings is insufficient, thus restricting the ability of persons with disabilities to live independently in the community. The Committee encourages Hong Kong, China, to continue reviewing the 'Design Manual – Barrier-Free Access' and apply these standards retroactively to premises under the management of the government or the housing authority as well. It recommends that Hong Kong, China, strengthen the monitoring process of accessibility."

28. Regulation 72 of the Building (Planning) Regulations under chapter 123 of the Buildings Ordinance provides for the design of barrier-free access and facilities and requires appropriate barrier-free access to buildings and their facilities so as to meet the needs of persons with disabilities. To supplement regulation 72, the authorities issued the Design Manual – a set of guidelines on barrier-free access and facilities.

29. The Design Manual, first published in 1984, was updated in 1997 and again in 2008. The authorities will continue to review it in consultation with stakeholders, including persons with disabilities, and adapt it to new developments in building technology and in society to improve barrier-free design standards.

30. The Government of the Hong Kong Special Administrative Region notes the Committee's recommendation that the new barrier-free design standards should apply retroactively to existing buildings and wishes to point out that the new standards apply to new buildings and renovations, modifications or additions to existing buildings. At the same time, a number of funds currently offer subsidies to private property owners to encourage them to improve barrier-free access to their property. Also, as the Committee is aware, the Government and the Hong Kong Housing Authority have launched a large-scale project to improve barrier-free access and facilities in about 3,500 existing government properties and 240 Housing Authority properties. By the end of June 2012, improvements to about 90 per cent of these properties had been completed. In addition, in accordance with the Disability Discrimination Ordinance, which applies to all buildings regardless of the year they were built, the Equal Opportunities Commission may take enforcement action in cases where no reasonable effort has been made to provide access for persons with disabilities. Given that the recommendation touches on a wide range of complex issues and would have profound legal, social and financial implications, its feasibility must be carefully evaluated. In particular, due to technical limitations, some existing buildings cannot be made to comply with the new barrier-free design standards.

31. Although regulation 72 of the Building (Planning) Regulations does not apply to the Government or the Housing Authority, pursuant to the Disability Discrimination Ordinance, which is legally binding on both the Government and the Housing Authority, public authorities may grant permission for construction projects only if they are satisfied that reasonable access will be provided for persons with disabilities. In addition, under the Disability Discrimination Ordinance, all members of the public have the right to enter or use any premises, and it is an offence to discriminate against persons with disabilities in the provision of access.

32. Consequently, the Government and the Housing Authority, in accordance with established policy, comply with the Design Manual currently in force and, to the extent possible, provide barrier-free facilities that exceed the legal standards. The Government and the Housing Authority have also set up a verification mechanism to ensure that new buildings or renovations and additions to existing buildings comply with the latest barrier-free design standards.

33. With regard to control mechanisms, the Buildings Department, in accordance with the Buildings Ordinance and the enforcement policy on unauthorized building work, will continue to step up enforcement of the law against unauthorized removal or alteration of approved access or facilities for persons with disabilities in private buildings. An owner who does not comply with a legal order issued by the Buildings Department under the Buildings Ordinance by carrying out remedial work may be sentenced upon conviction to 1 year's imprisonment and a fine of HK$ 200,000. If the owner still does not comply, he or she will be fined an additional HK$ 20,000 per day.

34. In order to raise awareness among property owners about their responsibility to maintain suitable barrier-free access and facilities, since 1997 the Buildings Department has implemented the All Access Action Plan to inspect the approved access or facilities for persons with disabilities in commercial buildings. If it is discovered that a building does not meet the requirements, the Buildings Department will issue a legal order under the Buildings Ordinance demanding that the owners rectify the situation. If the property owner does not comply with the order within the designated period, the Buildings Department will refer the case for prosecution.

35. Since April 2011, the Government has been appointing officials in every bureau and department to be in charge of barrier-free access. These officials coordinate matters relating to barrier-free access within their respective bureaux or departments. All government

premises also have a person in charge of barrier-free access to improve the day-to-day management of barrier-free facilities.

G. Right to life (paras. 63 and 64)

> "The Committee is concerned about the heightened suicide risk among persons with intellectual or psychosocial disabilities (35 per cent of the overall suicide rate in Hong Kong, China). The Committee calls upon Hong Kong, China, to provide the necessary psychological treatment based on free and informed consent of the person and counselling to these persons. The Committee recommends a regular assessment of their suicide risk."

36. The Government of the Hong Kong Special Administrative Region notes the Committee's concern about the suicide rate among persons with intellectual or psychosocial disabilities. It has always striven to ensure that persons identified as having suicidal tendencies have access to adequate specialist medical services. It is committed to working in close cooperation with various sectors, including NGOs, medical and health-care professionals and academia; taking multi-pronged and cross-sectoral measures; actively addressing suicide risk factors among persons with disabilities; and spreading suicide prevention messages in the community.

37. The Hospital Authority conducts comprehensive suicide risk assessments to diagnose suicidal tendencies in both outpatients and inpatients, and provides follow-up support. Specialist psychiatric outpatient clinics operate an assignment system to ensure that patients at risk can obtain prompt, appropriate specialist care. The Hospital Authority uses a series of assessments, including a suicide risk assessment, to follow the progress of inpatients at psychiatric hospitals towards recovery and rehabilitation.

38. A number of additional measures are being taken, such as gathering and analysing data on suicide, providing prevention, support and remedial services, raising awareness among the public and training front-line professionals to identify and handle potential suicides. Many mainstream services are also designed to promote mental health and identify high-risk cases. These include a series of programmes and services offered throughout Hong Kong, China or at the district level, such as telephone hotlines, outreach services, and immediate crisis intervention and in-depth counselling services to help young people, families and members of other vulnerable groups — including persons with disabilities — at risk of suicide to deal with their problems and to strengthen their support networks. Then, the case assessments carried out by social workers include a suicide risk assessment. In addition, those involved in managing high-risk patients with psychological disabilities, including persons with suicidal tendencies, also take cross-sectoral measures and regularly review the cases.

39. The suicide prevention NGO known as the Samaritan Befrienders Hong Kong receives funding to provide specialized services. Since 2002 it has been operating a suicide crisis intervention centre offering outreach, immediate crisis intervention and in-depth counselling services for those in need. Also in 2002, the Social Welfare Department launched a publicity campaign entitled Strengthening Families and Combating Violence, with suicide prevention as one of its main themes. NGOs and the Social Welfare Department provide a number of dedicated hotline services for those who may be contemplating suicide or suffering from any type of stress.

H. Freedom from exploitation, violence, and abuse (paras. 65–68)

> "The Committee is concerned about the incidents of women and girls with intellectual disabilities being subjected to sexual violence. The Committee suggests that Hong Kong, China, continue investigating these incidents and prosecute the perpetrators and all those responsible. It also recommends that sex education be taught to children and adolescents with intellectual disabilities and that the law enforcement personnel be trained on handling violence against women and girls with disabilities."

40. The Government of the Hong Kong Special Administrative Region has been making efforts through education to ensure that children and adolescents with intellectual disabilities have an appropriate knowledge and awareness of sex. The Education Bureau is using the comprehensive curriculum in primary, middle and high schools (including special schools) to promote sex education and help students to understand sex-related issues (such as self-protection, gender equality and sexual relations) as they grow up. Every year it organizes a variety of specialized sex education training courses for teachers in mainstream and special schools.

41. The Department of Health organizes sex education workshops for middle and high school students. Students with special education needs who attend mainstream public schools have equal opportunities to benefit from these workshops. The Department will provide assistance to any special schools that need specialized support to help them introduce sex education for students with intellectual disabilities.

42. With regard to support for persons with intellectual or serious psychological disabilities, the Hospital Authority provides social skills training to small groups or individuals, covering issues such as proper sexual attitudes and sexual harassment. It also offers support for families and caregivers, improving their understanding of individual patients' sexual needs.

43. Generally speaking, NGOs subsidized by the Social Welfare Department have the responsibility to ensure that service users are free from verbal, physical and sexual abuse during the period when they are receiving the service. NGOs providing rehabilitation services offer appropriate guidance, including sex education, to service users with intellectual or psychosocial disabilities according to their needs. In this connection, in 2010 the Social Welfare Department produced a sex education teaching kit for distribution to rehabilitation agencies to assist their front-line professionals (such as social workers, psychologists and counsellors) in providing sex education to adults with intellectual disabilities, with a view to protecting them from sexual abuse.

44. In addition, the Social Welfare Department has developed guidelines for handling cases of abuse of adults with intellectual or psychosocial disabilities to be used as a reference by rehabilitation agencies and casework units when handling relevant cases. It has also drawn up procedural guidelines for handling adult sexual violence cases to provide guidance on how to offer assistance to mentally incapacitated victims.

45. The Social Welfare Department also provides regular training for social workers and professionals to help them identify and handle suspected cases of child abuse and sexual assault.

46. Regarding the criminal investigation of child abuse and sexual assault, the authorities provide special training courses for investigators from the Social Welfare Department and the Hong Kong Police Force on conducting recorded interviews with mentally incapacitated persons and other children with disabilities serving as witnesses.

"In addition, while the Committee does not consider shelter workshops as a good way to implement the Convention, it also finds the daily allowance for persons with disabilities in shelter workshops to be too low and bordering exploitation. The Committee recommends that Hong Kong, China, enact legislation to raise the daily allowance for persons with disabilities in shelter workshops, so as to prevent their exploitation."

47. It should be pointed out that users of shelter workshops are not exploited. Shelter workshops provide a carefully planned work environment and allow persons with disabilities who cannot find jobs on the open market to receive suitable vocational training, thereby enabling them to develop social skills and interpersonal relationships while at the same time enhancing their capacity for work and preparing them for possible future employment, either in an enabling setting or on the open market.

48. Incentive payments are offered to shelter workshop users to encourage them to attend workshop activities and benefit from training. Incentive payments are a non-means-tested allowance rather than a form of salary or financial assistance. They are not designed to help users in financial difficulties with their living costs. Users in financial straits can apply for assistance through, for example, the Comprehensive Social Security Assistance Scheme.

49. The Government of the Hong Kong Special Administrative Region takes into consideration movements in Consumer Price Index A, the economic environment and the attractiveness of the incentive payment currently paid, and will continue to closely consider whether the amount needs to be adjusted.

I. Right to live independently and live in the community (paras. 69–70)

"The Committee is concerned about the shortage of subvented residential homes. It is also worried about the lack of premises for District Support Centres, whose aim is to strengthen the ability of persons with disabilities to live at home in their own community and be integrated into society. The Committee suggests that Hong Kong, China, allocate more resources to setting up more subvented mainstream residential homes and strengthening policies promoting establishment of accessible living facilities to secure the de facto possibility of free choice of accommodation. It calls upon Hong Kong, China, to ensure that the District Support Centres receive the necessary funds and premises in order to enable persons with disabilities to live in the community."

50. The Government of the Hong Kong Special Administrative Region has been developing the following three-pronged approach under the Rehabilitation Programme Plan, in order to encourage different sectors to participate in the provision of residential care services for persons with disabilities:

(a) Regulating residential care homes for persons with disabilities, so as to ensure a high quality of service, and introducing supporting measures to help the market develop different types of residential care homes for persons with disabilities;

(b) Supporting NGOs to help them establish financially autonomous homes; and

(c) Increasing the number of subsidized places in residential care homes.

51. In accordance with this policy, and following the entry into force of chapter 613 of the Residential Care Homes (Persons with Disabilities) Ordinance and associated regulations, in November 2011 a legal licensing system was set up for residential care homes for persons with disabilities. As a supporting measure, the pilot Bought Place Scheme was introduced in October 2010 to encourage private residential care homes for

persons with disabilities to upgrade their service standards, and to increase the number of subsidized places in residential care. In December 2011 the Financial Assistance Scheme was also introduced to assist private residential care homes for persons with disabilities in carrying out improvement work to comply with licensing requirements in respect of building and fire safety.

52. The number of subsidized places in residential care has been constantly increasing. Over the past five years (2007/08 to 2011/12), we have allocated the resources to create an extra 1,414 subsidized places in residential care homes for persons with disabilities, representing an increase of 13 per cent. It is estimated that in the next two years an additional 784 subsidized places will be made available in residential care homes for persons with disabilities, meeting the needs of about 10 per cent of the persons currently waiting for places in those homes. The search will continue for suitable sites where more places can be offered.

53. In addition, patients who have genuine relevant medical and social needs, and whose home environment has been deemed no longer fit for living, may apply for "compassionate rehousing" to suitable public rental flats, so that they may continue to live within their community. The Housing Authority will make modifications to the flats free of charge.

54. In order to strengthen supported community-based living for persons with severe disabilities, and to relieve the pressure on their families and caregivers, in March 2011 the Social Welfare Department launched a pilot home care service scheme for persons with severe disabilities, which offers a whole series of comprehensive home-based services to meet users' personal care, nursing care and rehabilitation needs.

55. Each year since January 2009 the Government has set aside an extra recurrent appropriation of about HK$ 35 million. Using these funds to consolidate existing community support services, it has established 16 District Support Centres for Persons with Disabilities to provide one-stop community support services for persons with disabilities and their families and caregivers. The Social Welfare Department has already found premises for 15 of the centres; the remaining 1 is operating out of a commercial building until a permanent site is found.

J. Freedom of expression and opinion and access to information (paras. 71 and 72)

> "The Committee takes note of the difficult situation of persons with hearing impairments in accessing information due to lack of official recognition of the significance of sign language by Hong Kong, China. The Committee is concerned about the lack of training for and services provided by sign-language interpreters. The Committee recommends that Hong Kong, China, increase training for and the services provided by sign-language interpreters. It should also recognize the public examination and assessment of such interpreters."

56. The Government of the Hong Kong Special Administrative Region has consistently pursued a policy of establishing a barrier-free environment and encouraging barrier-free communications for persons with disabilities, allowing their comprehensive integration into society. It is dedicated to adopting appropriate measures for the benefit of persons with disabilities, including facilitating the use of sign language and other forms of communication employed by the hearing-impaired.

57. To strengthen such communication, a number of Social Welfare Department-subsidized social and rehabilitation centres for persons with disabilities and two comprehensive service centres for the hearing-impaired offer training courses in sign

language and provide sign-language interpretation services, thus helping the hearing-impaired to communicate with those whose hearing is unimpaired. This includes interpretation in situations such as employment interviews, legal proceedings, marriage ceremonies and when seeking medical treatment.

58. Between 2005 and 2008 the Hong Kong Council of Social Service and the Joint Council for the Physically and Mentally Disabled ran a sign-language interpreter grading scheme. Students with outstanding grades were recommended for work as court interpreters. These bodies are now planning to work with organizations of the hearing-impaired on a specific certification course for sign-language interpreters, to train more good sign-language interpreters and to improve specialist skills in this field.

59. The Government is also committed to promoting the study of sign language. The Labour and Welfare Bureau consistently subsidizes bodies providing services for the hearing-impaired, self-help organizations that set up sign-language training courses and produce teaching materials, including computer and cell phone applications with sign-language study aids, sign-language flashcards and teaching kits, and the organization that established the Hong Kong sign-language browser. The Bureau has also provided subsidies for such organizations to diversify public information efforts so as to increase awareness of sign language and thus promote concord between the deaf and persons with hearing.

60. To promote the use of sign language and encourage concord, the Bureau's Rehabilitation Advisory Committee in May 2010 established a small working group to advise the Government. The group may also resume the training and certification of sign-language interpreters, along with other related matters.

K. Education (paras. 73 and 74)

> "While commending the Integrated Education Plan to help students with disabilities study in mainstream schools, the Committee is concerned about its implementation. The Committee worries that the teacher-student ratio is too high and that the training for teachers in special education needs is inadequate. In addition, the Committee is troubled by the low number of students with disability in tertiary education, due to lack of a coherent education policy. The Committee recommends a review of the effectiveness of the Integrated Educated Plan and the improvement of the teacher-student ratio, as well as the training of teachers in special education needs and reasonable accommodation. The Committee urges Hong Kong, China, to provide sufficient resources to ensure the accessibility in tertiary education."

61. The Government of the Hong Kong Special Administrative Region is committed to providing students requiring special education with the proper services. It constantly gives ordinary schools capable of providing such services additional resources, professional support and teacher training so that they are able to follow an inclusive education model involving the entire school, and encourages schools to develop an inclusive culture and policy with measures supportive of students requiring special education.

62. The Government of the Hong Kong Special Administrative Region takes ad hoc measures to provide additional teachers over and above the numbers based on classes taught and the set teaching body at publicly run schools. In addition, it provides funds for schools through devices such as the Capacity Enhancement Grant and the Learning Support Grant, in support of various education measures. The schools can use these resources to hire additional teachers or procure additional specialist services. The student-to-teacher ratio has in fact improved markedly in recent years. At secondary schools, it has declined from 1:18 in the 2005/06 school year to 1:15.3 in the 2011/12 school year. At elementary schools, too, it has fallen, from 1:18.4 in 2005/06 to 1:14.9 in 2011/12.

63. To enhance the professional capacity of teachers in catering for students with special education needs, the Education Bureau launched a five-year teacher professional development framework on integrated education in the 2007/08 school year. Under the framework, the Bureau offers a three-tier systematic training programme with basic, advanced and thematic courses for serving teachers. In 2010 it reviewed the framework, finding that teachers and other stakeholders considered the three-tier programme to be practical and effective. The Bureau thus decided to invest further; in the 2012/13 school year it continued training teachers using the three-tier system, adjusting the objectives according to schools' requirements and the progress made. It organized seminars, workshops and exchanges of experience on special education needs for teachers and others working in schools. All local teacher training institutions have already included special education among the courses they give to teachers before entry into service.

64. To improve arrangements, the Bureau uses various means to monitor the use of resources and implementation of measures by schools. These include making regular on-site visits and canvassing the opinions of the professionals involved and other stakeholders so as to provide continuous supervision of integrated education in practice. In 2005, the Bureau established a Working Group on Integrated Education in Mainstream Schools, which holds regular meetings with representatives of schools, colleges and universities, other government bodies, NGOs and parents' associations, explaining to them the latest advances in integrated education and listening to their opinions on ways to make improvements. The Bureau will maintain contacts with the various school councils, NGOs and parents' associations, improving communications and strengthening cooperation so as to provide proper support for students with special education needs.

65. In higher education, tertiary-level schools and institutions in Hong Kong offer the same opportunities to all qualified applicants and admit students after considering every aspect of their performance. To assist students with special education needs when they apply for admission at universities receiving funding from the University Grants Committee, a supplementary assistance programme has been set up under the Joint University Programmes Admissions System (JUPAS). This programme permits such students to submit applications without competing against other applicants through JUPAS; however, they must meet the minimum requirements for the course in question. As with other applicants, it is the institution itself that has the final word on admission. The Vocational Training Council has a specific admissions programme for students with special education needs who meet appropriate course requirements and who when interviewed are assessed as able to complete the course and earn a diploma.

66. In the 2012/13 school year the Vocational Training Council added a youth college, the aim being to provide young people with more opportunities outside mainstream education. The college offers special support for non-Chinese-speaking students and students with special education needs, providing appropriate professional education and training opportunities.

L. Right to health (paras. 75 and 76)

> "The Committee is troubled by the fact that the demand for public medical services is higher than the supply. The Committee is also concerned about the fact that many insurance companies reject the applications of persons with disabilities, thus leaving them unable to pay the medical fees. The Committee suggests that Hong Kong, China, allocate more human and financial resources to the public medical services and arrange the cooperation of the insurance companies."

67. The Government is fully aware of the situation to which the Committee refers in its observations regarding the increasing demand for public medical services. It has

consistently attached importance to improving health services. It maintains an effective public-private twin-track health-care system in which the public medical services provide citizens with a safety net while private services provide choice for those who can afford it.

68. Regarding the public medical services, the Government has in past years unceasingly increased the resources allocated to improving services addressing the medical needs of the public. The annual recurrent appropriation for the Hospital Authority has increased by some 40 per cent, from HK$ 29,000,000,000 in 2007/08 to HK$ 40,400,000,000 in 2012/13. In addition, the Chief Executive gave a commitment in his election manifesto to continue to boost public health-care funding in the medium and long term to the extent the administration's finances would allow, so as to cope with an ageing population.

69. As for private medical services, to ensure the long-term sustainability of the medical system, one feature of the authorities' health reform plans is that the growth of private treatment will be facilitated while public services are kept as the cornerstone of the health system and act as a safety net for the entire population. The aim is to correct the imbalance between public and private hospital services while increasing the overall volume of services provided by the medical system to meet ever-increasing demand.

70. The Committee expressed concern about the difficulties encountered by some persons with disabilities in obtaining health insurance coverage. In 2010, the second stage of a Government-run public consultation on health-care reform put forward a voluntary, Government-regulated private health insurance and health protection project (the Health Protection Scheme). The aim of the Scheme is to complement the public health-care services. Under the current health system, public services have always served as the foundation and universal safety net. Public hospitals provide some 90 per cent of in-patient services (in terms of patient-bed-days). The Hong Kong Special Administrative Region heavily finances the public health sector so as to ensure that all strata of society are provided with equal and exceptionally affordable access to health services.

71. The Health Protection Scheme aims to provide more choice with better protection to those who are able and willing to pay for private health-care services. Under the Scheme, the main features of the health plan will be provided by participating insurers; these include consumer protection (for example making sure everyone is insured, with coverage for life), acceptance of people with pre-existing conditions after a waiting period and the use of a risk-sharing mechanism for insuring high-risk people. The standard feature of the Scheme is that it strengthens consumer protection and affords the public, including persons with disabilities, easier access to health insurance. The Government of the Hong Kong Special Administrative Region is now drawing up detailed suggestions, and expects to put forward proposals in 2013 and to hold public consultations.

M. Work and employment (paras. 77 and 78)

> "The Committee is concerned about the high unemployment rate of persons with disabilities in Hong Kong, China, and that their average salary ranks well below that of persons without disabilities. The Committee is also troubled by the low number of civil servants with disabilities. The Committee recommends that Hong Kong, China, introduce affirmative actions to promote the employment of persons with disabilities, inter alia, to prioritize the employment of persons with disabilities as civil servants."

72. Government policy seeks to ensure that persons with disabilities have equal access to productive and gainful employment in the open market. The Government has passed appropriate legislation to ban discrimination against persons with disabilities in

employment and work, and has always been committed to providing them with employment support and vocational training services, including assistance from the selective placement services of the Labour Department to help them find work, vocational rehabilitation training from the Social Welfare Department and the Vocational Training Council, and retraining courses organized by the Employees Retraining Board.

73. The Government will also continue to support incentive projects of all kinds and will increase public understanding of the work potential of persons with disabilities through public information activities. In terms of incentive projects, the Government has introduced a work orientation and placement scheme. Participating employers are eligible for subsidies. The amount granted for each person with disabilities hired is equivalent to two thirds of their salaries during the period of paid employment (up to a limit of HK$ 4,000 per month), for up to six months.

74. Furthermore, from the beginning of 2013, financial assistance will be made available to help employers hiring persons with disabilities to purchase assistive devices and carry out workplace modifications, thus helping the disabled to find jobs on the open market and work more effectively. For each such person hired, the maximum assistance obtained by the employer will be HK$ 20,000. A HK$ 500 mentorship award will also be offered as an incentive for employers to provide workplace guidance to employees with disabilities and help them adapt to new jobs.

75. The Social Welfare Department's Enhancing Employment through Small Enterprise Project gives NGOs seed money and helps them set up small businesses to create employment opportunities for people with disabilities. The most an NGO can receive for each venture under this project is HK$ 2 million for start-up capital and initial operating expenses. Persons with disabilities must amount to at least 50 per cent of salaried employees. By the end of November 2012, 580 posts for persons with disabilities had been established under this scheme. To sustain efforts to create more employment opportunities for persons with disabilities, the Government of the Hong Kong Special Administrative Region has already invested HK$ 100,000,000 in this project, and will extend the maximum period of funding assistance from two to three years.

76. As regards public awareness, in 2009–2010 the authorities began substantially increasing outlays for public information activities, from about HK$ 2 million to some HK$ 13 million. Promoting employment of people with disabilities is one of the priorities of the annual public awareness campaign. The Government will continue to cooperate with the Rehabilitation Advisory Committee and many sectors of society, through public information and publicity activities and visits, to make the work potential of persons with disabilities generally known and to encourage people to hire persons with disabilities and buy products and services offered by rehabilitation organizations.

77. As an employer, the Government of the Hong Kong Special Administrative Region has always ensured that when persons with disabilities apply for government positions they can compete on an equal basis with other applicants. Its aim is to carry out a proactive hiring policy that gives them relatively advantageous treatment. In the hiring procedure, disabled candidates must only meet the basic entry requirements, and are not subject to screening but are invited directly to selection interviews or written examinations. When appropriate, they receive priority consideration to enable them to compete with able-bodied candidates on an equal basis. If, during interviews and examinations, a person with disabilities requires special arrangements, the relevant department will consider their requirements and make appropriate provision.

78. To help disabled officials carry out their jobs in an appropriate manner, the Government provides various types of on-the-job assistance. It also earmarks assistance for the purchase of assistive equipment. It will maintain this policy of employing persons with

disabilities and carrying out publicity campaigns promoting the hiring of such persons as public servants.

N. Adequate standard of living and social protection (paras. 79 and 80)

> "The Committee is concerned about the family-based assessment for application and eligibility to receive the Comprehensive Social Security Assistance. In addition, the Committee is worried about the different standards employed by doctors in approving the disability allowance. The Committee suggests that Hong Kong, China, replace the family-based assessment with an individual-based one in order to determine the eligibility to receive the Comprehensive Social Security Assistance. The Committee also recommends that Hong Kong, China, introduce uniform standards for approving the disability allowance."

79. Regarding the concern expressed by the Committee about the family-based assessment (which also covers disabled applicants) for the Comprehensive Social Security Assistance Scheme whereby applications for assistance are considered in respect of the family unit, it should like to point out that the current arrangement appropriately reflects a social value: family members should assist and support one another. Breadwinners thus bear a responsibility to provide for their family members who are unable to support themselves. The aim of the Scheme is to provide a safety net of last resort and assist families that have insufficient financial support. Thus, applications for assistance are considered and approved based on the financial status of the family unit. This system provides assistance for the most needy, making good use of limited public resources, and ensures the sustainability of a publicly funded, non-contributory scheme. It is understood that exceptions should be made in certain circumstances, for example when persons with disabilities are on bad terms with their families or when, for specific reasons, their families cannot care for them. In such instances the Director of the Social Welfare Department may entertain applications for assistance under the scheme from individuals, on a case-by-case basis.

80. As explained above, applicants for disability allowances must obtain a doctor's certificate from a public medical institution attesting that the severity of their disabilities is broadly equivalent to that of a person with a 100 per cent loss of earning capacity according to the criteria in Schedule 1 of the Employees' Compensation Ordinance (chap. 282). To ensure consistency and objectivity, medical practitioners at public hospitals/clinics assess applicants' conditions with the aid of a standardized medical assessment form and checklist. They take full account of the causes of the disorders, applicants' clinical and physical state and other factors relevant to their conditions before issuing a medical assessment as to whether their disabilities are of sufficient severity.

81. To improve the mechanism used for disability allowances, the Social Welfare Department set up an interdepartmental working group to review and improve the guidelines, forms and checklists given to doctors at public hospitals and clinics who perform medical assessments and the procedures followed by each department and agency handling applications. The review has now been concluded and the authorities will introduce reforms to ensure that medical assessments are carried out in a consistent and objective manner.

O. Participation in political and public life (paras. 81 and 82)

> "The Committee is concerned about the low number of persons with disabilities holding public offices and the inaccessibility of some polling stations for voters with

disabilities. The Committee urges Hong Kong, China, to enhance the active participation of persons with disabilities in politics through affirmative action and ensure the accessibility of all voting stations."

82. The Government will continue to seek suitable disabled candidates to serve on various advisory and public bodies. To cite a recent example, a person with disabilities has been appointed vice-chair of the Special Needs Groups Task Force under the Commission on Poverty. Also, a woman with disabilities is currently being given positive consideration for appointment to the Women's Commission.

83. Regarding access for the disabled at polling places, the Registration and Electoral Office has done its best to select locations for polling places that are accessible to voters with reduced mobility. In the 2012 elections for the Legislative Council, 549 polling stations were set up, 512 (93 per cent) of which were accessible to individuals with reduced mobility, a similar level to the 94 per cent of polling stations accessible to reduced mobility voters in the 2011 elections for the district councils.

84. In future elections the Registration and Electoral Office will continue to do its best to set up polling stations at locations accessible to persons with reduced mobility, and will take a variety of related steps to ensure that such people can exercise their right to vote. Whenever possible, it will install temporary ramps at places with no permanent barrier-free access, so as to permit wheelchair-bound voters to cast their ballots there. Voters who are unable to go to their assigned polling stations because of their reduced mobility can arrange with the Office to vote at a polling station specifically designed to accommodate reduced mobility voters. When necessary, the Office will arrange transport free of charge so as to facilitate disabled voter access to their assigned polling stations. If the polling station to which a reduced mobility voter is assigned is not barrier-free and the voter has not applied to be reassigned, the staff at the polling station will do what they can to facilitate entry and exit.

P. National implementation and monitoring (paras. 83 and 84)

"The Committee is worried by the low rank of the focal point, the Commissioner for Rehabilitation, and the lack of an independent monitoring mechanism according to article 33, paragraph 2. The Committee recommends that Hong Kong, China, strengthen the authority of the Commissioner for Rehabilitation and set up an independent monitoring mechanism that involves the active participation of persons with disabilities and their representative organizations."

85. Full note is taken of the Committee's view. A review is now under way of the Commissioner for Rehabilitation's rank, the extent of his authority, and the structure and staff under him.

86. As for the supervisory mechanism, the Equal Opportunities Commission performs the role of independent statutory, enforcement agency for the Disability Discrimination Ordinance, consistently defending equality of opportunity for people with disabilities and upholding their rights as listed in the Ordinance. At the same time, the Rehabilitation Advisory Committee is the main advisory body to the Government that works to defend the rights and interests and promote the welfare of persons with disabilities. Besides assisting the Government in promoting the Convention, the Committee has consistently played a major part in monitoring implementation of the Convention in Hong Kong. The Chairman, Vice-Chairman and members of the Committee are all non-government officials; the membership includes people with all kinds of disabilities, parents of people with disabilities, representatives of persons with disabilities' self-help organizations and rehabilitation NGOs, people from academic circles, business leaders, social activists,

professionals and others concerned with the welfare of persons with disabilities. Representatives of the relevant bureaux and government departments are ex-officio members and are responsible for ensuring that the Committee is provided with the necessary support and assistance and that the matters it takes up are given appropriate follow-up. With wide acceptance and representation, the Committee is the most suitable central mechanism to promote the implementation of the Convention. The Government considers that the existing framework has been effective in monitoring the implementation of the Convention in Hong Kong.

III. Reply of the Government of the Macao Special Administrative Region

A. Freedom from exploitation, violence and abuse (paras. 90 and 91)

> "The Committee is concerned about the heightened risk of violence against women and girls with disabilities becoming victims of domestic violence and abuse. The Committee recommends that services and information be made accessible to these victims. It specifically encourages Macao, China, to set up a complaint mechanism and conduct mandatory training for the police force on this issue."

87. The Government of the Macao Special Administrative Region, besides bolstering the communication and cooperation mechanism between police units and the government bureaux concerned, is also planning to formulate regulations to combat domestic violence and to put the subject on the legislative agenda. The aims will be to prevent, curb and correct domestic violence and to increase protection and assistance for victims.

88. The draft recommends that, when the competent authorities ascertain that there has been domestic violence, they should inform the victims that they are entitled to protection and assistance, and provide them with the other resources required for the protection of their rights and interests. It recommends that the competent authorities should, either on their own initiative or in cooperation with public or private bodies, foster publicity campaigns against domestic violence, especially by disseminating information at schools, in the community and through the media, and ensure that victims are fully apprised of their rights and interests and of the channels to request assistance. The authorities should also draw the attention of the public to the social problems caused by domestic violence and encourage collective action against it. At the same time, the draft also recommends that specialized training activities should be organized for police staff and others performing related tasks on how to respond to and deal with domestic violence issues.

89. The Health Bureau in 2011 began two years of training courses for the police force on human trafficking.

B. Right to live independently and live in the community (paras. 92 and 93)

> "The Committee is concerned that the right to live independently and in the community has not yet been fully achieved in Macao, China. The Committee urges Macao, China, to prioritize the implementation of this right and shift from institutionalization to in-home or residential living, as well as provide other community support services."

90. According to information from the 2011 Macao general population census, 37 per cent of persons with disabilities live in residential units within the community and another

12.5 per cent live in collective housing units such as institutions. For the most part, persons with disabilities in Macao are thus living in the community. Currently, the persons with disabilities living in institutions are mainly those with disabilities of intermediate or high severity, so that they cannot care for themselves and their families cannot care for them, or patients with intellectual disabilities or chronic mental disorders.

91. The Government has always pursued the guiding principle of community-based integration and participation and will continue, by offering facilities and financial and technical assistance, and in cooperation with NGOs, to give people with disabilities and their families support and services and help them live independently and integrate into the community.

C. Education (paras. 94 and 95)

"The Committee is concerned that the number of students with special educational needs in a non-inclusive environment is higher than that in an inclusive one. The Committee is also troubled by the low number of students with disabilities attending tertiary education. The Committee wishes to remind Macao, China, that the concept of inclusive education is essential to the implementation of article 24 and should be the rule rather than an exception. The Committee calls upon Macao, China, to continue making tertiary education more accessible to students with disabilities."

92. Article 12, paragraph 3, of Act No. 9/2006, the Non-Tertiary Education System Framework Act, establishes that "priority shall be given to making special education inclusive at ordinary schools, while special education may also be offered at special schools and by other means". Clearly, inclusive education is the main way in which the Government of the Macao Special Administrative Region, intends to expand the provision of education services for students with special needs. While promoting inclusive education, the Government will make use of various arrangements as appropriate, according to students' academic capabilities and needs. Some students with relatively severe impairments, apart from those placed in special schools, are able to study in special classes at ordinary schools (including small special education classes). Schools thus can sometimes afford them and ordinary students an opportunity to indulge and interact in certain courses and activities. Students with less severe impairments will be merged into ordinary classes and study the same courses as ordinary students, taking part in any activities arranged for ordinary students.

93. According to the 2011/12 education statistics, there were 1,044 special needs students, of whom 484 were merged into ordinary classes; 204 students were studying in special classes at ordinary schools (including small special education classes) and 356 were in special schools. This means that some 65.9 per cent of students with special education needs are currently being taught in inclusive education.

94. On the other point, relating to special education students who have completed secondary school and wish to continue their studies, the Government of the Macao Special Administrative Region has in recent years actively contacted staff at schools and tertiary institutions seeking to formulate recommendations on how to adapt entrance examinations and university learning facilities for such students. The relevant government departments are also planning to establish channels of communication with the institutions concerned in order to look jointly into the feasibility of arranging supplementary assistance for special education students wishing to enrol in university. Measures might include: special arrangements for entrance examinations, taking into account the specific needs of each applicant, for example by allowing extra time for the examination, providing facilities at the examination site, allowing them to use computers and using special testing materials or equipment; similarly, for students whose admission has already been confirmed,

encouraging tertiary institutions to provide appropriate facilities and equipment so as to create an environment conducive to learning by students with special needs. The University of Macau has already adopted an admissions policy for students with disabilities which allows disabled applicants to voluntarily disclose their disability status or condition and to state whether they wish to benefit from special arrangements such as an admission examination waiver or special arrangements for taking the examination. Once enrolment is confirmed, the University sets up a small team to help provide suitable assistance.

D. Work and employment (paras. 96 and 97)

> "The Committee is concerned that employees with disabilities only account for 0.3 per cent of the total employed population. The Committee recommends Macao, China, to introduce more affirmative action to enable persons with disabilities to find employment."

95. To give employers in the various trades a better understanding of the work capabilities of people with disabilities, the Labour Affairs Bureau has set up a special web page that presents services for the employment of people with disabilities. In addition to covering aspects to which employers must pay attention when hiring persons with disabilities, it also gives people with disabilities information on interviewing skills and on how to apply for a job. There is also a special web page for job announcements and for matching candidates with placements, where persons with disabilities can search through vacancies and ask the Labour Affairs Bureau to provide references to the companies concerned, thus increasing their chances of being taken on. Through visits to companies and various other channels, the Bureau also provides employers with information on the hiring of people with disabilities, raises awareness of their work capabilities and encourages employers to join the ranks of those who hire them.

96. On another level, the Macao Social Security Fund, working together with the Labour Affairs Bureau and rehabilitation agencies, uses a combination of subsidies and training to improve the employability of unemployed persons facing particular difficulties in Macao. These include programmes for disabled employees, such as the Vocational Training Allowance for the Unemployed, the Employment Allowance for the Unemployed, the Subsidy for Recruitment of Youths Seeking Jobs for the First Time and the Employment Allowance for Unemployed Persons with Disabilities.

97. To increase understanding among all sectors of society of the work capabilities of people with disabilities, the Labour Affairs Bureau and the Social Welfare Bureau together run numerous activities, including the Award for Employers Hiring Disabled Persons and the Award for Disabled Employee Excellence, which are conferred in alternate years. Such acknowledgements serve to increase understanding and acceptance of persons with disabilities' work capabilities among employers and the public overall, thus encouraging employers to offer more jobs to people with disabilities. By 9 January 2012, the Labour Affairs Bureau had received 7,360 vacancy announcements intended for people with disabilities, 71 per cent more than in the same period in 2011. This reflects the fact that employers are increasingly considering hiring people with disabilities.